The Outlook

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Annual Sale

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Table Cloths and Napkins

This collection is made up generally of everyday, serviceable, medium-priced goods, most of which have been taken from our regular stock. The assortment includes 4,399 cloths and 3,900 dozen napkins.

Napkins (per dozen)

Breakfast Size	$2.25	2.50	2.65	3.25
Reduced from	2.50	2.75	3.00	3.75
Dinner Size	$2.75	3.50	4.50	5.00
Reduced from	3.00	4.00	5.00	6.00

Table Cloths

2 x 2 yds	$2.25	3.00	4.75	6.50
Reduced from	2.50	4.00	6.00	9.50
2 x 2½ yds	$2.75	4.50	6.50	7.00
Reduced from	3.25	5.50	8.00	8.00
2 x 3 yds	$3.25	5.00	6.50	8.25
Reduced from	3.75	5.75	8.00	10.00
2¼ x 2¼ yds	$4.50	5.00	6.00	7.50
Reduced from	5.00	6.00	7.50	9.00
2½ x 2½ yds	$4.00	5.50	6.75	7.50
Reduced from	4.75	6.50	8.50	9.00
2½ x 3 yds	$4.75	5.75	7.00	9.75
Reduced from	5.75	6.50	8.25	12.50

Larger sizes proportionately priced.

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LOT 1.—A medium weight Cotton Hose, 4-inch garter hem, double sole, in black and tan, 3 pair for $1.00.

LOT 2.—An Ingrain Gauze Cotton Hose, with white split sole or white tipped toe and heel, black only, 3 pair for $1.00.

LOT 3.—A medium weight Cotton Hose, with split foot, black only, 3 pair for $1.00.

LOT 4.—An Ingrain Cotton, medium weight, with white split sole in out sizes, black only, 3 pair for $1.00.

LOT 6.—A light weight Lisle, 4-inch garter hem, double sole, 3 pair for $1.00.

LOT 7.—A Sheer Gauze Lisle, double sole, trunk top, in black only, 6 pair for $2.25.

LOT 10.—A heavy black Silk Lisle Hose, with 4-inch lavender garter hem, lavender toes and heels, 6 pair for $2.25.

French and Austrian Lingerie at about 25 per cent less than regular value

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Hand Embroidered Chemises

At	$0.85	1.00	1.25	1.50	1.75	2.00
Reduced from	1.25	1.50	1.75	2.00	2.25	2.75
	2.50	3.75	4.75	6.00	7.50	10.00
	3.50	5.00	6.75	8.00	9.75	13.50

Hand Embroidered Drawers

At	$0.95	1.10	1.25	1.50	1.75	1.85
Reduced from	1.25	1.50	1.75	2.00	2.25	2.50
	2.25	2.75	3.50	5.75	7.50	9.50
	3.00	3.75	4.50	7.50	9.00	12.50

Hand Embroidered Gowns

At	$1.85	2.50	2.75	3.00	3.50	4.50
Reduced from	2.50	3.50	3.75	4.00	4.75	5.75
	5.75	6.75	7.50	8.75	11.75	15.00
	7.50	8.75	10.00	12.00	15.00	20.00

Hand Embroidered Combinations

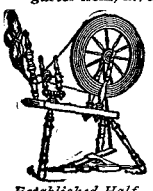
Skirt and Corset Cover at	$1.85	2.50	3.75			
Reduced from	2.50	3.50	5.00			
	5.00	6.75	7.50	11.50	13.50	15.00	22.50
	7.50	9.50	10.00	15.00	18.00	20.00	30.00
Drawer and Corset Cover at	$1.85	2.00	2.75			
Reduced from	2.50	2.75	3.75			
	3.00	4.75	6.00	7.50	11.50	15.00	22.50
	4.00	6.50	8.50	10.00	15.00	20.00	30.00
Princess Combinations at	$9.50	10.50	13.75			
Reduced from	11.75	13.75	17.50			
	15.50	30.00	35 00	60.00	75.00		
	20.00	42.50	50.00	85.00	100.00		

Hand Embroidered Corset Covers

At	$1.00	1.10	1.85	2.00	2.75	3.50
Reduced from	1.50	1.75	2.50	3.00	3.75	4.50

Hand Embroidered Petticoats

At	$1.75	2.00	2.25	2.50	3.75	5.75
Reduced from	2.25	2.75	3.00	3.50	5.00	7.50
		7.50	9.75	11.75	15.00	22.50
		9.50	12.50	15.00	20.00	30.00



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The Outlook

JANUARY 1, 1910

LYMAN ABBOTT, Editor-in-Chief. HAMILTON W. MABIE, Associate Editor
THEODORE ROOSEVELT
Contributing Editor

THE COLLAPSE OF A COLOSSAL FALSEHOOD

It was by the University of Copenhagen that Dr. Cook himself elected to be judged; the verdict of that court of decision, thus selected by himself, must be accepted by the world as final and conclusive. The wonderful tales now put forth as to the cause of the disappearance of the original documents in the case will have no effect on the mind of the public, because that public had already become wearied with a long series of inconclusive and improbable statements heretofore made. Dr. Cook had several months in which to prepare his case and submit it in proper form to that tribunal to which he thought fit to have it referred. The result has been a total collapse of his claim, always based chiefly on his bare assertion that he had been the first to reach the North Pole. The committee of scientists to whom the University of Copenhagen submitted the claim report that what they received was, first, a narrative of the expedition, essentially the same as that printed two months ago in the New York "Herald" and prepared for the present purpose by Dr. Cook's secretary, and, secondly, what purported to be a typewritten copy of part of Dr. Cook's original note-book. This alleged copy, they say, "does not contain any original astronomical observations whatever, but only results," and the committee declare further that "the documents presented are inexcusably lacking in information which would prove that the astronomical observations therein referred to were really made; and also contain no details regarding the practical work of the expedition and the sledge journey which would enable the committee to determine their reliability." The committee's final verdict and the verdict of the University Consistory is expressed formally in the finding of the latter: "The documents handed the University for examination do not contain observations and information which can be regarded as proof that Dr. Cook reached the North Pole on his recent expedition." Officers of the University in their individual expressions of feeling go even further. Thus, Dr. Stromgren, Director of the Astronomical Observatory at Copenhagen and chairman of the committee on the Cook claims, is quoted as calling Cook's actions shameless, as admitting with sorrow and indignation that the University had been hoaxed, and as saying that "it was an offense to submit such papers to scientific men." Rasmussen, a noted Arctic explorer who has favored Dr. Cook's claim, was called in as an expert by the University's committee; he is reported as saying: "When I saw the observations, I realized that it was a scandal. The documents which Dr. Cook sent to the University are most impudent. It is the most childish sort of attempt at cheating." Many others who have believed Cook's stories heretofore now admit that they are convinced that the claims are spurious, and that the best that can possibly be said is that Cook is unbalanced in mind or that he did not have scientific knowledge enough to know where he really did go, and that for a time at least he may have believed that he had reached the Pole. Those judges of evidence who are unable to concede even this much point out that there are many indications that Cook must have known from the first that his story would in the end collapse, and they believe that it was with this in view that he forestalled investigation in America by taking advantage of the enthusiasm naturally

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felt by the Danes when he first reached civilization at a Danish port and coolly accepted honors which were conferred without sufficient evidence and which involved some committal of the Danish authorities to his side of the controversy. The fundamental justification of the distrust which has been felt all along in this country by many scientific observers and students of the laws of evidence has been that, to put it squarely, Dr. Cook has not acted as would have acted a man of honor whose claims had been disputed and who knew that they were just. Such a man would have turned every effort and applied every minute to the task of getting his case clearly and strongly before a body of experts whose decision would be accepted the world over. Dr. Cook, on the contrary, has carried on a long series of evasions and delays, and has apparently put his main efforts into making money by lectures and through publication. In this way he gained, some say thirty thousand dollars, some say one hundred thousand dollars. Finally, when patience was all but exhausted, he presented to a foreign court of inquiry a lame and even ridiculous case. The mere fact that he did not offer to appear in person before the court he had himself selected, in order that he might answer inquiries, is most significant.

THE WORLD'S VERDICT

The Outlook has from the first advised its readers not to form a final conclusion on this matter until the evidence was all in and passed upon. It has, however, as a reporter of important news events, narrated from week to week the various comments upon Dr. Cook's story, and only two weeks ago it summarized in a few lines some six or eight important accusations against Dr. Cook, with the comment that if he were so unfortunate a man as to have all these varied accusations by different people unjustly made, the only possibility of reinstatement in the confidence of the people was to appear with evidence before an impartial American scientific body, present his proof, and submit to questioning. We may point out with some satisfaction also that Mr. Kennan's articles in The Outlook entitled "Arctic Work and Arctic Food," while taking up only one particular aspect of the question, formed, so far as we know, the first attempt on this side of the Atlantic to submit Dr. Cook's narrative in that aspect to anything like scientific analysis and criticism. As we write Dr. Cook's whereabouts remain unknown, and no word has come from him in reply to the findings of the University of Copenhagen. It is now too late for him to attempt any defense by personal assertion; nothing but absolute and conclusive proof will serve; and it is all but incredible that, if such proof exists, it should not have been presented already. It is safe to say that this fraudulent attempt to foist upon the world a tale of Arctic accomplishment will go down in history as one of those strange impostures like that of Ireland, the forger of a play attributed to Shakespeare, of George Psalmanazar (who falsely pretended to be a native of Formosa and wrote an elaborate description of that island, which he had never even visited), or of the Count de Rougemont, who a few years ago fooled scientific England with his vividly invented lies about the Great Barrier Reef of Australia. But these men's falsehoods injured no one personally; Cook's fabrication, if such it be, was an attempt to rob of his just meed of honor a man who had devoted a large part of his life to the great adventure of Polar discovery.

JUDGE LURTON

Public scrutiny of those men who are appointed to the Supreme Bench is the only instrument which the people can use for influencing the character of that Court. While the appointment of Horace Harmon Lurton was still only a matter of surmise, public discussion of his qualification for the post began, and it continued even to the date of his confirmation by the Senate last week. What sort of judge has Judge Lurton been? Has he been simply learned in statutes, decisions, and traditions, or has he been learned in those matters of human life apart from which the profoundest legal principles are but mental abstractions? Is his view of the law mechanical or vital? It is with this sort of questions that the ordinary lay American is concerned. One answer is easily made. President Taft was a judge who

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had a vital view of the law, and he thinks well enough of Judge Lurton to select him, first of all, to sit on the Supreme Bench. President Taft, moreover, ought to know Judge Lurton. For eight years Judge Taft and Judge Lurton were on the bench in the same circuit, and together reviewed the decisions that came up from district judges. If President Taft does not know, not only Judge Lurton's legal ability, but also his temperament and inclination as a judge, it would hardly seem possible for any one else to do so. Another answer might be found in Judge Lurton's decisions in the many cases concerned with the trust problem. Of these perhaps the most important is known as the Addystone Pipe case. The opinion in this case was written by Judge Taft. Judge Lurton concurred in this opinion, and the decision of the court was confirmed by the United States Supreme Court. This was the first case practically to show that the Anti-Trust Law was effective. Another great case was that of the Continental Wall Paper Company, in which the court decided that the illegality of a combination made it impossible for it to enforce the payment of money due to it under agreements involved in the illegal combination. In this decision Judge Lurton concurred. It is interesting to note that Judge Peckham, whose place Judge Lurton is taking, was one of the dissenting judges when the Supreme Court confirmed this decision. It is clear, therefore, that in the matter of trust decisions Judge Lurton has upheld those laws which give power to the Federal Government. Further answer might be had from decisions in other cases, particularly those in which the question of employer's liability is raised. Some criticism has been directed against Judge Lurton on the ground that he has not recognized the actual conditions of life which put the employee in a very different position with relation to his employer from that which he held in the earlier days when the traditions of the law were being formed. However this may be, it is clear from more than one decision of Judge Lurton that he recognizes certain elements of corporate responsibility to employees that other judges have overlooked. For example, in the case of a brakeman killed by a defect in a car which did not belong to the railway on which he was working but which was running on its line Judge Lurton held that the railway's responsibility extended to the duty of properly inspecting all the cars which ran on its lines. One criticism which has been directed against Judge Lurton ought to be noted—that he is sixty-five years old. If this is a defect, it is one which Judge Lurton himself can, unfortunately, not repair. The real significance of this criticism lies in the fact that most men at sixty-five are inclined to look backward, not forward, and are governed by unchangeable opinions. It is hardly fair, however, to assume that Judge Lurton is not young in mind and heart. It is much better to have a man ripe in years and yet elastic in mind in the Supreme Court than to have there a man who, however young in years, is mentally rigid. Judge Lurton is a native of Kentucky, and for sixteen years he has been a judge on the Sixth United States Circuit, with headquarters in Tennessee.

INVESTIGATION PROMISED

As we anticipated, the Secretary of the Interior has demanded a Congressional investigation of the charges preferred against him and his department by "Collier's Weekly" and Representative Hitchcock. It is announced, apparently by authority, that this investigation will be granted by the Senate, presumably to be begun immediately after the holidays. That there should be such an investigation in justice not less to the Secretary of the Interior than to the public we have already affirmed. It should be conducted by Congress because Congress has power to summon witnesses and compel attendance. It should be conducted in the open, not in secret; or, if that is for any reason impracticable, not only the results but the evidence should be made public at the earliest possible date. It should be conducted by the Senate rather than by the House, and by a Standing Committee rather than by any committee especially appointed, because, whether justly or not, the Speaker of the House is popularly believed to be determinedly opposed to the Administration's policy of conserving the National resources for the Nation's benefit,

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and because any special committee would be more or less liable to newspaper suspicion of being selected to thwart rather than to promote that policy. We repeat what we have heretofore said, that while there is a real difference between Mr. Pinchot and Mr. Ballinger, partly in method, partly temperamental, and while there is not that cordial co-operation between their Departments that there should be, we believe that the so-called Ballinger-Pinchot controversy is to a considerable extent the creation of journalistic imagination; and that both men are sincerely desirous of preserving the Nation's wealth for the Nation's benefit. It may be that this so-called controversy may prove beneficial rather than injurious; for the great peril to National conservation is public apathy, and the newspaper reports, while greatly exaggerating the matter, have concentrated public attention on the subject as nothing else, probably, could have done so effectively. The public will now have a right to demand that "Collier's Weekly" and Representative Hitchcock either make good their charges before the Senate committee when appointed, or withdraw them; and it will also have a right to expect that the committee will ascertain how much truth there is in the current reports that the Land Office and the Bureau of Forestry are not co-operating, and, if there is any truth, will either diplomatically bring about a better co-operation or fix the blame for the failure where it belongs.

COAL LANDS ON OUR PUBLIC DOMAIN

To the great satisfaction and relief of all friends of the conservation of our natural resources, a bill was introduced last week in the House of Representatives to conserve a vital resource—coal. The bill aims to separate surface rights from mineral deposits on our public lands. As was appropriate, it was introduced by Mr. Mondell, Chairman of the Public Lands Committee. When Secretary Ballinger, of the Department of the Interior, was Land Commissioner, he declared that—

> The object to be attained . . . is to conserve the coal deposits as a public utility and to prevent monopoly and extortion in their distribution. This may be accomplished either through a leasing system by which the title would remain in the Government under proper regulation and supervision by the Secretary of the Interior, or through the sale of the deposits with restrictions on their mining and use which would control the minimum output and conserve the deposits as a public utility under similar regulations. As regards the future disposition of coal lands, I am impressed with the belief that the most advantageous method will be found in a measure authorizing the sale of the coal deposits in the lands, subject to forfeiture for failure to exercise the rights granted under such reasonable regulations as may be imposed.

Mr. Dennett, the present Land Commissioner, says that President Roosevelt's Message at the beginning of the first session of the Sixtieth Congress indorsed this. Mr. Dennett's quotation from that Message, however, indicates Mr. Roosevelt's willingness to adopt either of two plans, but a preference for the first and against the second, thus differing from Mr. Ballinger. Mr. Roosevelt's view was expressed as follows:

> In my judgment, the Government should have the right to keep the fee of the coal, oil, and gas fields in its own possession and to lease the rights to develop them under proper regulations; or else, if the Congress will not adopt this method, the coal deposits should be sold under limitations to conserve them as public utilities, the right to mine coal being separated from the title to the soil.

The Outlook prefers the first of these alternatives. It believes, with Mr. Roosevelt and as against Mr. Ballinger, that a method of leasing is better than a method of sale. The latter should be adopted only if Congress will not adopt the first.

TWO VIEWS OF DUTY

In his annual report Mr. Dennett, Land Commissioner, indorses, as does Secretary Ballinger, the policy of the Roosevelt Administration regarding the conservation of our natural resources—lands, forests, waters, minerals. Its prosecution by the Taft Administration, however, according to Mr. Dennett, must be carried on, so far as the Executive branch of the Government is concerned, within the powers delegated to it by Congress. For instance, he says:

> The Executive officer clothed with the administration of the public land law can act only pursuant to the laws enacted by Congress. . . . He cannot legislate nor can he substitute his judgment for that of Con-

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gress. To prevent fraud and in aid of proposed legislation . . . he may temporarily suspend from disposition portions of the public domain, but he cannot permanently declare reservations except where authorized by Congress.

In his address at Milwaukee the other day (his first important speech since leaving office) another view of the Executive's duty was expressed by the Hon. James R. Garfield, Secretary of the Interior in the Roosevelt Administration. He thus correctly outlined the principle which governed that Administration:

The Executive is a trustee of the property, rights, and interests of the public. The people properly consider the Executive as their particular advocate, their special representative. His stewardship carries with it grave responsibilities and affords splendid opportunities to serve the people well. President Roosevelt accepted both responsibilities and opportunities. The work for conservation was possible because he was constantly looking out for the public interest, and was willing to take action for the public welfare unless there was some prohibition under the Constitution or in law to prevent such action.

But, as Mr. Garfield concludes, the fight for conservation is now in the halls of Congress:

The present Administration has recommended and outlined the legislation it deems necessary to carry out most effectively the work and policy. It now rests with our representatives in Senate and House to do their share in fulfilling the pledge given our people that our vital natural resources shall be conserved and used for the benefit of all the people of this and future generations. It is not an easy task to obtain legislation which is opposed by great vested interests. We may be sure that all the men and corporations who have in years gone acquired ownership or control of land, timber, coal, oil, phosphates, and water, free from regulation or condition and without just compensation to the public, will not voluntarily acquiesce in the proposed changes. There is no danger that the rights and demands of such interests will be neglected; the danger is that the public interest may be forgotten.

As Mr. Garfield was Commissioner of Corporations, and later Secretary of the Interior, he is in a good position to judge when he says that the fight for regulation of the use of natural resources is of the same character as that for control of corporations, but that it is even more vital to the permanency of our Nation:

Both questions are ethical and social as well as industrial and political. . . . Both widen individual opportunity and increase National as well as individual efficiency. . . . Each policy is founded upon the proposition that the public welfare is of higher importance than private interest, and that, in case of conflict, public welfare must control.

This conclusion actuated the Roosevelt and doubtless actuates the Taft Administration. As to the Executive"s exercise of his function, however, The Outlook believes with Mr. Garfield that a broad, not a narrow, construction of discretion is the one in harmony with the spirit of our time.

AMBASSADORIAL APPOINTMENTS

Last week President Taft sent to the Senate the names of three appointees as Ambassadors, eleven as Ministers, and a large number as Secretaries of Embassy or Legation. The appointees were promptly confirmed. First on the list was the name of the Hon. Robert Bacon, of New York, as Ambassador to France; an admirable appointment. At a time when the question of our tariff relations with France is pressing we are sending thither a representative who, as former member of the firm of J. P. Morgan & Co. and later as Assistant Secretary and Secretary of State, has had valuable experience in business and in diplomacy. Personally a singularly winsome man and with a character of rare fidelity and conscientiousness, Mr. Bacon may be depended on to repeat the successes of his immediate predecessors as Ambassador, General Horace Porter and Mr. Henry White. So admirable was the last named in this and other positions that the announcement of a change in our representation at Paris came as a surprise which was turned into a disappointment when it was disclosed that Mr. White was not to be promoted to London, but was to be retired from a service in which he had shown remarkable efficiency for a quarter of a century. Mr. White and Mr. Bacon represent thoroughly simplicity, straightforwardness, sincerity, breadth of vision, and grasp of detail. If Mr. Bacon's appointment is good, that of Mr. Richard C. Kerens, of Missouri, as Ambassador to Austria is doubtful. We have not been happy in some of our recent representations to the Court of Vienna, perhaps the most exclusive court in Europe. To

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it we now send a man who is without diplomatic training or experience. Mr. Kerens was born in Ireland; served in the Union army throughout the Civil War; afterwards became a railway contractor and political boss of the Mark Hanna type. He has been the Missouri member of the Republican National Committee. He has been three times a candidate for the United States Senate. He is known for his great contributions to campaign funds. So far from barring appointments to office, this latter fact was too much in evidence as a reason for appointment. We have been flattering ourselves that we had outgrown the spoils system. Almost all of Mr. Taft's other selections seem to have been taken with an eye single to merit, but the appointment of Mr. Kerens looks very much like a reward for political services and as the easiest way out of a quarrel among Missouri politicians. If so, the friends of Civil Service Reform have cause for chagrin.

PROMOTION FOR MERIT

The third ambassadorial appointment is that of the Hon. Henry Lane Wilson, of the State of Washington, now Minister to Belgium, to be Ambassador to Mexico. Twelve years ago Mr. Wilson was made Minister to Chili, from which post he went to Belgium. His continued promotion is therefore in line with the policy of Secretaries Hay, Root, and Knox in advancing our diplomatic representatives whenever possible. The same may be said of the promotion of Mr. Charles Page Bryan from Portugal to Belgium, filling Mr. Wilson's place; of Mr. Henry P. Fletcher, of Pennsylvania, our efficient First Secretary at Peking, to be Minister to Chili; of Mr. Reynolds Hitt, Secretary at Berlin, to be Minister to Panama; and of Mr. Fenton McCreery, of Michigan, Minister to Santo Domingo, to be Minister to Honduras. The other ministerial changes call for individual comment. That of Mr. William James Calhoun, of Illinois, to be Minister (and presumably in a short time Ambassador) to China has already been chronicled in these columns. Mr. Edwin Vernon Morgan, Minister to Cuba, is made Minister to Paraguay—hardly a promotion, one would think, in view of the relative amount of influence to be exercised. This is apparently confirmed by the transference of so important a diplomat as Mr. John B. Jackson, of New Jersey, to Cuba. Mr. Jackson entered the service as Second Secretary to our Legation at Berlin, and before it was raised to an Embassy was made First Secretary. In 1902 he was appointed Minister to Greece, his duties being later extended to include Rumania, Bulgaria, and Servia. Two years ago he became Minister to Persia. The post of Minister to Cuba is thus heightened in importance, as is fitting when one considers the Cuban situation. Other interesting appointments are those of ex-Governor Henry T. Gage, of California, a man without diplomatic experience, to be Minister to Portugal, and of Mr. Charles W. Russell, now Assistent Attorney-General, but with experience gained on several semi-diplomatic missions, to be Minister to Persia. Other men who have had diplomatic experience are Mr. Laurits S. Swenson, of Minnesota, Minister to Denmark from 1897 to 1905, to be Minister to Switzerland, and Mr. Horace C. Knowles, of Delaware, transferred from Nicaragua to Santo Domingo. Noteworthy secretarial promotions are those of Mr. Peter Augustus Jay, Secretary of the Tokyo Embassy, to be Agent and Consul-General at Cairo; Mr. George Post Wheeler, Second Secretary of the Embassy, to be Secretary of the Embassy at St. Petersburg; and Mr. Lewis Einstein, the accomplished writer, formerly Secretary of the Constantinople Embassy, to the very important position of Secretary of the Peking Legation. These and the many other transfers of secretaries are emphatically in line with President Taft's admirable Executive order on which we commented editorially last week.

THE PRICE OF RUBBER IN HUMAN LIFE

Virtually everybody uses rubber, and almost everybody uses cocoa in some form. Few people, however, know what price has been paid for these products. We do not mean price in money, but price in human suffering, despair, and death. Of course not all the rubber or cocoa that is used in America is obtained at such cost; but some of both products is. Moreover, the

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fact that this is so affects necessarily the market in both products. It is on the west coast of Africa that this price is paid. It is extorted by men who are willing to sacrifice human life for the sake of wealth. There are two European countries which are responsible for the conditions that enable these men to grow rich. Those two countries are Belgium and Portugal; for it is Belgium that has assumed responsibility for the so-called Congo Independent State, where great concessionaire companies are driving the natives out into the jungle to get rubber; and it is Portugal that owns Angola, where a comparatively few Portuguese traders have for years been securing slaves to cultivate cocoa in the plantations on the Portuguese islands of St. Thomé and Principe. The black people of West Africa who are suffering and dying and those who are living in the dread of pain and death in order that we may wear overshoes and drink chocolate have the right to call on us for aid. That America can do something is shown by the effectiveness of what America has already done. Partly as a consequence of public opinion in this country already expressed, both Belgium and Portugal have begun to make at least a first step toward reform. Only last week The Outlook received from a Belgian Minister of State a manifesto asking it to warn its readers against misrepresentation of Belgium, and to inform them of the measures of reform in the Congo already taken or proposed. The case of the Congo is particularly flagrant. Leopold II, whose death The Outlook recorded last week, as sovereign of the Congo was responsible for the slavery, nominally abolished, which has been really the industrial system of the colony. Under the guise of appropriation of land and a labor tax, a whole people has been forced into involuntary servitude. Sir Arthur Conan Doyle, the creator of Sherlock Holmes, who knows not only how to tell a good story, but also how to stir public opinion in behalf of those whom he believes to be wronged, is the author of a book, recently published by Doubleday, Page & Co., in which he tells the story of the Congo. If the reader wants the pith of the matter, let him turn to Chapter VIII, on "King Leopold's Commission and Its Report." In other chapters are statements which apologists for the Congo have denied or explained away; but in this chapter are facts established by a body of men chosen by Leopold himself. Once Belgium could say truly that this state of affairs was not its concern, but merely the concern of its King. Now it can say that no longer. Belgium has accepted, though other countries have not recognized, the transfer of sovereignty over the Congo from the shoulders of the King to its own. The new King, who when Crown Prince visited the Congo, declared as he took the oath of accession last week that Belgium would govern the Congo humanely. The Belgian Minister of the Colonies has recently made a visit to the Congo, and as a consequence has issued a statement which is part defense and part promise of reform. The only report of this which we have seen is a translation of a résumé published in "L'Indépendance Belge." According to this, neither the defense nor the promise is definite enough to satisfy those who demand a thorough change in the system. The Outlook still believes that the only solution lies in an international conference.

WHAT COCOA COSTS THE SLAVES

No less urgent than the need for reform in the Congo, though somewhat different in character, is the need for the cure of outrageous wrongs in Portuguese West Africa. For over half a century slavery has been outlawed in that territory. The Portuguese laws on the subject are stringent. Nevertheless, slaves are bought in Angola, taken in shackles to the coast, and thence sent to the Portuguese islands of St. Thomé and Principe, where they work on the cocoa plantations in what is practically hopeless servitude. It is true that they are not called slaves; they are called *serviçaes*. It is true that the system is not known as slavery; it is nominally labor under contract. What difference do names, however, make to the natives who are seized, carried off by force, made to sign contracts they do not understand, and set to work in an alien country without hope of ever returning home? What difference do names make

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to those blacks who, unequal to the hardships of the enforced journey, are left to die on the wayside? Of course this system, whatever it may be called, is slavery; and of course these blacks who are termed *serviçaes* are actual slaves. Up to 1902 the cruelties practiced were incredibly atrocious. By that time even the blacks, overawed as they were, could endure them no longer, and they rose in rebellion. Of course they were defeated; but they had put fear into the hearts of the Portuguese traders. Up to that time a trader who succeeded in bringing half of his gang of *serviçaes* alive to the trading center counted himself fortunate. Since then natives die on the journey, and their skeletons line the roads that the slave gangs travel, but the proportion of deaths is not so large. Four large cocoa concerns of Great Britain instructed Mr. Joseph Burtt to make an investigation of these conditions. After an absence of nearly two years, Mr. Burtt returned to England and reported his findings. As a consequence, these concerns, which virtually, if not literally, control the cocoa trade in England, have refused to buy cocoa from this territory. Mr. Burtt is now in the United States in order to inform public opinion on this matter. Several of the most important cocoa manufacturers of America, so he has ascertained, do not use St. Thomé or Principe cocoa. This fact is a proof that other considerations than money-making govern the commercial world, for there is no better cocoa than this which manufacturers are refusing to buy because it is slave-grown. Any reader of The Outlook who desires to know whether the concern whose cocoa or chocolate is customarily consumed in his household uses slave-grown cocoa or not can readily ascertain it by writing to the manufacturer direct, inclosing a self-directed stamped envelope. The manufacturers who are not using it will, we believe, welcome the chance to let their customers know the fact. Cocoa can be grown profitably without recourse to slavery, as Mr. Burtt found elsewhere in Africa. Americans can exert a great deal of influence toward having it grown under conditions that do not disgrace civilization, and we feel sure that they will not be slow to act.

THE ROOSEVELT EXPEDITION

Mr. Roosevelt and his party have now entered upon the second stage of their African experience. The first period, just ended, has included a most interesting experience in British East Africa, with the railway terminal Nairobi as a central point from which have set forth their hunting expeditions, explorations of the country in a wide circle, and visits at the invitation of the owners of large estates. Many of these experiences have already been described in the four articles which have appeared in "Scribner's Magazine." It is evident that the success of the party in obtaining specimens of African animal life for the Smithsonian has been extraordinary. Our readers will, we think, be interested in Mr. Roosevelt's comment on the comparative accessibility of British East Africa, and we quote a passage from his article in the January "Scribner's:" "While in the highlands of British East Africa it is utterly impossible for a stranger to realize that he is under the equator; the climate is delightful and healthy. It is a white man's country, a country which should be filled with white settlers, and no place could be more attractive for visitors. There is no more danger to health incident to an ordinary trip to East Africa than there is to an ordinary trip to the Riviera. Of course, if one goes on a hunting trip, there is always a certain amount of risk, including the risk of fever, just as there would be if a man camped out in some of the Italian marshes. But the ordinary visitor need have no more fear of his health than if he were traveling in Italy, and it is hard to imagine a trip better worth making than the trip from Mombassa to Nairobi and on to the Victoria Nyanza." How busy a single day may be even in Africa is shown by a press despatch from Kampala dated December 22: "Colonel Roosevelt, after an antelope hunt this morning, called upon Mother Paul, the American superior of the convent here, visited the Catholic mission, helped to dedicate a wing recently added to the Church Mission Society's hospital, and took luncheon with Bishop Hanlon. This afternoon he received the King of Uganda, and with him attended a dinner given by F. A. Knowles,

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the sub-commissioner." Leaving this region, the party has now moved on to Uganda, and will proceed northward by caravan, through the wildest and least accessible region included in their plans, until they reach Khartum, and thence proceed still northward down the Nile to Cairo and civilization. From Nairobi they went to Entebbe, having in their route an opportunity to view the wonderful Victoria Nyanza. With Entebbe, where Mr. Roosevelt was the guest of the Governor of Uganda, began their experience of that country, which has been described as "the wildest and most beautiful, perhaps the most dangerous, and certainly the most interesting, field of their explorations." It is expected that the party will reach Gondokoro, in Uganda, about February 17. From Paris comes the announcement that Mr. Roosevelt has been made a foreign associate of the Academy of Moral and Political Sciences, and the "Temps" comments that it is as "a messenger of national idealism" that he merits the eminent distinction.

REVOLUTION TRIUMPHANT

A decisive engagement between the insurgents and the forces put into the field by Zelaya when he was in power took place in and near the town of Rama, in Nicaragua, early last week. The fighting appears to have extended over two or three days, and the reports received at Washington assert that the total loss on both sides in killed and wounded was about six hundred. It is also asserted that General Estrada has received the surrender of the remnant of the Zelayist army. If these reports are confirmed, as seems entirely probable, there is no reason to doubt the additional assertion of the despatches from Bluefields—that General Estrada is certain to be proclaimed President of Nicaragua within a very few days. The rapid transformation scenes so common in Central American Republics have never been more striking than in Nicaragua the last week, for on the very day on which the news of this victory reached the United States Dr. José Madriz was inaugurated as Zelaya's successor in the Presidency. There seems to have been some slight hope on the part of Zelaya's supporters that Madriz would prove acceptable to the element which has hated and treated Zelaya as their oppressor. If such hope existed, it was quickly dispelled. Although early despatches said that when Madriz entered the capital, Managua, he was received with unbounded enthusiasm, while in true tropical fervor wreaths of flowers were thrown about his neck, later accounts indicated that the capital city remained turbulent and that the anti-Zelayites, as they may be called, did not hesitate to shout "Death to Zelaya!" in the open streets. General Estrada, who had already proclaimed himself President of the Insurgent Government, instantly cabled to Washington that his followers would never accept Madriz, and demanded recognition for his force as belligerents. The United States Government is still, as we write, patiently awaiting the event of the immediate situation. If Estrada is accepted with reasonable unanimity by the Nicaragua people and Congress as President, it is probable that the United States will be content with demanding full information about the execution of the two American citizens Groce and Cannon, with proper reparation if this execution was not defensible, and with the punishment of any individuals who may have illegally and improperly abused the persons or seized the property of American citizens.

AN ANCIENT DRAMA

Graduates of Bryn Mawr College have done a public service in behalf of art by producing a great play. They have given it in three cities—Boston, New York, and Philadelphia. The play is over two thousand three hundred years old; it was written about the time of Ezra and Nehemiah; but it is as modern in feeling, and one might add also in form, as if it had been written yesterday. Certainly the way in which a modern audience sat silent, intent, and absorbed showed that, after all, in essential qualities human life and experence do not change in twenty-four centuries. The play was the "Medea" of Euripides. It was given in the beautiful English version of Gilbert Murray. Those who associate Greek drama with

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Greek grammar, who recall plodding along in study of Greek choruses for the sake of obtaining a certain minimum rank in school or college by managing to answer questions about prosody, who threw Euripides into a common limbo with Aristophanes and Sophocles and Æschylus when they left their Greek class-rooms and were thankful for their ability to forget irksome tasks, are as unprepared as the unlearned for such an impression as this play so staged and acted has made. The story of Medea is one of those tales that everybody supposes that he alone does not know. Medea, a barbarian princess, was captivated by the Greek Jason and fled from her home with him. Greek law, it is to be remembered, made marriage between a Greek and barbarian impossible. At last, after wanderings in which Medea, in her savage way, did Jason a good turn, they came with their two little sons to Corinth. There Jason arranged to marry the king's daughter, and there began the tragedy. Medea, consumed with rage at Jason's faithlessness, plots with skill at once to thwart Jason's plans and to bring upon him all the vengeance she can conceive. There before the pillared house where Medea dwells the tragedy unfolds itself with relentless swiftness. The power of the drama is all the greater because of its noble and almost oppressive restraint. How Euripides deals with universal experiences can be seen from such a passage as this. The chorus is reflecting upon Medea's determination to sacrifice her passionately loved boys in order to fill Jason's cup of woe to the brim:

"And thus my thought would speak: that she
Who ne'er hath borne a child nor known
Is nearer to felicity:
Unlit she goeth and alone,
With little understanding what
A child's touch means of joy or woe,
And many toils she beareth not.

But they within whose garden fair
That gentle plant hath blown, they go
Deep-written all their days with care—
To rear the children, to make fast
Their hold, to win them wealth; and then
Much darkness, if the seed at last
Bear fruit in good or evil men!
And one thing at the end of all
Abideth, that which all men dread:
The wealth is won, the limbs are bred
To manhood, and the heart withal
Honest: and, lo, where Fortune smiled,
Some change, and what hath fallen? Hark!
'Tis death slow winging to the dark,
And in his arms what was thy child."

The performance of the play was extraordinarily conformed at once to the character of the play and to the prepossessions of the audience. The single scene, the Greek costumes, which were designed by Mr. Joseph Lindon Smith from figures on Greek vases, and the movements of the chorus were in close keeping with Greek tradition. On the other hand, the acting and the music were perhaps more in accord with modern practice, but were so managed that there was congruity in every respect. The music was the more effective because of the simplicity of the means employed. The music was written and the singers were trained by Mr. Malcolm Lang, and the play was produced under the direction of Mr. George Riddle. The total effect upon the audience was that which evidently those in charge of the play had in mind—an impression as deep, as solemnizing, and as lasting as that which was left upon the minds of a Greek audience four centuries before our era.

DESPICABLE JOURNALISM

The latest exploit of advanced American journalism is a tumultuous onslaught on an English poet who has the great misfortune to suffer occasional lapses from sanity. A reporter secured a "story" from Mr. William Watson on his arrival in this country in which the poet disclosed the names of two women who, he said, had supplied him with the material for a widely advertised satirical poem, thus violating, by his own confession, the hospitality of a home of one of the most distinguished men in English public life. This story, with other equally irresponsible statements, was published at length in a New York newspaper, and taken up by a great number of American newspapers as a delicious morsel to be rolled under the tongue of the great American public. It now appears, by the statement of the poet's brother, that Mr. Watson is subject to occasional lapses from sanity, and that in one of these unfortunate periods of mental irresponsibility he confided to a newspaper reporter opinions that ought

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to have been heard only within the walls of a sanatorium. The revolting aspect of the business is the eagerness with which these wholly personal matters were exploited in large type from the Atlantic to the Pacific, the reputation of a man whose work has been marked by unusual distinction and dignity eclipsed in a day, and an honorable reputation thrown into the rubbish-heap by a kind of journalism which does not scruple to use both a man and a reputation as material for a sensational story, and then throws both aside as mere refuse. It is only justice to Mr. Watson that his misfortune should be known, and that he should be relieved of the stigma of violating hospitality and of conduct unbecoming a gentleman. It is simple justice that this unfortunate episode should be forgotten and that he should be thought of once more as the author of this beautiful tribute to Wordsworth:

"Poet who sleepest by this wandering wave!
When thou wast born, what birth-gift hadst thou then?
To thee what wealth was that the Immortals gave,
The wealth thou gavest in thy turn to men?

Not Milton's keen, translunar music thine;
Not Shakespeare's cloudless, boundless human view;
Not Shelley's flush of rose on peaks divine;
Nor yet the wizard twilight Coleridge knew.

What hadst thou that could make so large amends
For all thou hadst not and thy peers possessed,
Motion and fire, swift means to radiant ends?—
Thou hadst, for weary feet, the gift of rest.

From Shelley's dazzling glow or thunderous haze,
From Byron's tempest-anger, tempest-mirth,
Men turned to thee and found—not blast and blaze,
Tumult of tottering heavens, but peace on earth.

Nor peace that grows by Lethe, scentless flower,
There in white languors to decline and cease;
But peace, whose names are also rapture, power,
Clear sight, and love: for these are parts of peace."

Newspaper editors and reporters whose conception of journalism is that of the sleuth-hound bent on tracking personal scandals are urged to read these lines by Stedman:

"ON A GREAT MAN WHOSE MIND IS CLOUDING

"That sovereign thought obscured? That vision clear
Dimmed in the shadow of the sable wing,
And fainter grown the fine interpreting
Which as an oracle was ours to hear!
Nay, but the Gods reclaim not from the seer
Their gift—although he ceases here to sing,
And, like the antique sage, a covering
Draws round his head, knowing what change is near."

A LITERARY REVOLT

The revolt against crude indecency and cheap immorality in English fiction begins to look serious. Something might be forgiven in the way of free handling of delicate themes, if the handling were powerful, vital, or illuminating; but the semi-nude stories which have come from the English press of late years have been, for the most part, conspicuous only for their nudity. Genius has been notably absent, and very few of them have shown even a rudimentary touch of the artistic quality. No scheme for a censorship has yet been devised that seems workable; but the circulating libraries, which have a great place in England, have taken a step which will establish a kind of sieve which will exclude indecent literature from their shelves, and so spare them the tide of complaints which have come pouring in from all parts of the country. These libraries have practically taken the position that before ordering books hereafter they propose to have them read, and they are requesting that advance sheets shall be put in their hands for this purpose. They have taken this step, not to protect literature from scavengers, but in order to placate the offended taste and aroused conscience of their subscribers and to save themselves serious loss of business. They have decided that they will not "place in circulation any book which, by reason of the personally scandalous, libelous, immoral, or otherwise disagreeable nature of its contents, is, in our opinion, likely to prove offensive to any considerable section of our subscribers." There have been recent instances of outrageous violation of personal hospitality and confidence which

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have at last awakened a sluggish public to take account of the license of certain writers in England. This is a move in the right direction; for the managers of the libraries are not dealing in such cases with literature, and any attempt to indict them as lacking in artistic sense will utterly fail. What they are trying to do is to exclude from their shelves stories and memoirs prepared especially for the market which always exists for scandals. It is printed indecency, and not in any sense literature, with which these libraries are dealing, and it is high time that some such action as this were taken to protect innocent readers from books which are an offense to every decent person. So far, American writers, as a rule, have not entered into competition with the English scandal-mongers and celebrators of adulteries, though one young American novelist, who is capable of better things, is rapidly approaching the danger-mark; and as he approaches the danger-mark, he shows steady degeneration in his work. American readers do not want prudish books. They are not afraid to see life, if it is life for the sake of life in the spirit of art that is presented to them; but they do not wish to have their lower natures pandered to by books on dangerous themes written for the express purpose of securing a large sale.

GEORGE P. FISHER

Professor George Park Fisher, who died at Litchfield, Connecticut, last week, was, like his colleague in Yale University, Professor Lounsbury, a striking refutation of the ancient superstition that a learned man must be dull. So delightful was Professor Fisher's personality, so nimble his wit, so genial his spirit, that it was not always easy to remember that he was one of the foremost scholars of his time. As a boy his intellectual powers were so promising that his grandfather undertook his education; he went to Brown University, where his career was stamped by unusual activity and energy. After graduation he studied law; but, becoming deeply interested in the religious aspects of life, he went to the Auburn Theological Seminary, and later pursued special studies in Germany. At the close of his student days he accepted a Professorship of Divinity in Yale, and became also the pastor of the College. In 1861 he was transferred to the Professorship of Ecclesiastical History in Yale Divinity School. This was the beginning of his career as a writer, and the long list of books which stand to his credit form a remarkable illustration of the fruitfulness of a thinker and a scholar who also had the gift of expression. His "Supernatural Origin of Christianity," his "History of the Reformation," his "Beginnings of Christianity," his "Grounds of Theistic and Christian Belief," his "History of the Christian Church," his "History of Christian Doctrine," to select a few titles, established his reputation and authority as an exact and erudite scholar and as an original thinker. From his professorial chair he was one of the leaders in the movement which has resulted in the reconstruction of the theology of the Congregational churches. His leadership was notable for absence of the destructive spirit, for its irenic temper and its profoundly constructive character. While the battle was raging fiercely between the old and new schools of Congregationalism, brought to a crisis by the theological tests which were imposed on candidates for foreign missions, Dr. Fisher was never in the thick of the fray, and yet was one of the most influential leaders of the liberal movement; conservative in temper, but candid, progressive, and courageous. As a story-teller Dr. Fisher was almost in a class by himself; but he was not a *raconteur* of idle tales. His stories were instinct with character, humor, and keen observation of life. They were not only very amusing, but they were often illuminating. He had a charming wit, never caustic, but often penetrating; a happy faculty of putting a situation in a phrase and condensing an argument in an epigram. To be his companion was a piece of rare good fortune; to be his friend was a rare privilege.

CHARLES LEDYARD NORTON

The death of Charles Ledyard Norton, at Sandwich, Massachusetts, in the seventy-second year of his age, recalls the early days of The Outlook when it was the "Christian Union," when the editorial staff included Mr. Beecher, Mr.

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Oliver Johnson, Mr. George S. Merriam, Mr. John Habberton, with Mr. Norton as managing editor. Mr. Norton was graduated from Yale University, and was in the Yale Scientific School at the outbreak of the Civil War. He enlisted in 1861, and remained in the service of the Government until 1866, when he retired with the rank of Colonel. In 1868 he became managing editor of the "Christian Union," a position which he filled until 1878 with great efficiency, and in a spirit which made all his associates his warm personal friends. Mr. Norton had the prime quality of a managing editor; he always kept his desk clear. No man could have been more faithful in his devotion to his duties, nor more exact in discharging them, while his geniality and kindliness lubricated the work of the office and made association with him a pleasure. Colonel Norton was one of the earliest apostles of the outdoor life, devoted to athletics and to certain kinds of sport, and bringing indoors the freshness and vitality of the man of the habit of vigorous exercise. He was very fond of boys, and one of his chief interests was the writing of stories for boys, with the notes of courage, manliness, and health running through them all. After leaving the staff of the "Christian Union" he contributed to many periodicals, largely in the field of out-of-door life; and his later years were spent in the beautiful village of Sandwich, on Cape Cod. His friends were always glad of a sight of him when he revisited the scenes of his earlier life, for he brought with him an air of sincerity, health, and friendliness. He was one of those who make work easier and life sweeter.

FURNITURE AT THE METROPOLITAN MUSEUM

Mrs. Russell Sage has once more made New York City her debtor. Some months ago she provided funds for the planting of rare rhododendrons in Central Park. She has now planted another memorial there, namely, in the Metropolitan Museum of Art. Unfortunately, the Museum buildings are located in a playground every foot of which should be devoted to the people's outdoor life. But wherever the Museum is, its collections should be as completely as possible representative of art in general and of American art in particular. It has just received a notable addition in American domestic art, for Mrs. Sage has bought and given to the Museum the famous collection of American furniture and allied arts gradually brought together with marked intelligence by Mr. H. Eugene Bolles, a Boston lawyer. Visitors to the Hudson-Fulton Exhibition at the Museum may remember the pieces of furniture lent by Mr. Bolles to the American section of the exhibition. To him the Museum authorities turned in their hope to secure a collection of colonial furniture as a permanent feature of the Museum. This was natural when we realize that the collection covers a period extending from the earliest settlements in New England to the first quarter of the nineteenth century, and that its duplication would now be practically impossible owing to its present prohibitive cost. It embraces not only objects made in England, Holland, and France, but also the American-made products of the same periods and styles, such as the oak furniture of the Jacobean age; the walnut and cane productions of the succeeding era, when Spanish influences were felt; those with Dutch characteristics; the transition pieces showing the unification of various styles into the forms later developed by the cabinet-maker Chippendale and others; and finally the work of the period of Sheraton and Hepplewhite. The collection comprises nearly seven hundred items. Among them the Jacobean examples seem most to merit notice; certainly Mr. Bolles has given most attention to them. The collection is specially rich in the cane-covered chairs in vogue at the end of the seventeenth century and in the early spindle chairs, specimens of the wainscot type of chair, in slat-back chairs, and in others that came into use during the first half of the eighteenth century. The representative pieces of the entire eighteenth century, as well as of the first quarter of the nineteenth, are also numerous. Thus from earliest colonial times to the first quarter of the nineteenth century the Metropolitan Museum will now possess a fairly complete collection of American domestic art. For to furniture Mr. Bolles added mirrors, clocks, and utensils in copper,

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pewter, and brass. One traces the course of American art from the objects imported by the colonists from England and Holland to those representing independent native design. As a record of our art the Bolles collection is of immense value to the Museum.

A ROTARY EXHIBITION

Five years ago Mr. J. C. Nicoll, the well-known painter, became President of the American Water-Color Society. He had long wanted to give a wider purpose to the labor and expense of bringing together the Society's annual exhibition, held in New York City for a few weeks at the end of the season. Thanks to the co-operation of Professor Halsey Ives, Director of the St. Louis Museum of Fine Arts, a plan was arranged. By it certain art institutions and museums of the Middle West have sent a representative to New York to select, with the aid of a resident committee, about a hundred and fifty canvases from the annual exhibition. Thus a doubly selected collection has been assured. It was also assured at a minimum expense. Each of the Western institutions pays its proportionate share. The American Water-Color Society simply provides the machinery by which the plan is carried out, and receives no return beyond the satisfaction of doing something for the benefit of American art. In addition to the pictures from the Water-Color Society, to fill vacancies caused by sales, about twenty-five works from the New York Water-Color Club are selected at the end of the year. Usually about one-fifth of the works sent have been sold. Of course, in order that the full number of pictures chosen by the jury may be maintained, all entries must be made for the entire period; also artists must replace the works sold, if requested to do so. This is the scheme by which a "rotary exhibition" of water-colors has been held in the principal cities of the United States. Such a novel feature in art education has, we are glad to say, excited corresponding enthusiasm. For instance, at St. Louis, some weeks ago, no less than fifteen thousand persons visited the gallery in three hours. People naturally like to take advantage of an opportunity to see, not the ordinary exhibition, but a notable show of the year's best work. The rotary exhibition is now at Toledo. The year's itinerary includes, besides the above cities, Pittsburgh, Buffalo, Cincinnati, Detroit, Chicago, and Columbia, Missouri. The scheme has resulted in so much interest that other institutions in other cities than those on the present list have applied for inclusion in the itinerary; hence Mr. Nicoll and his fellow-directors are now considering the advisability of lengthening their present schedule of one year so as to include the other institutions and cities. In connection with its two annual exhibitions the National Academy of Design might well follow this plan. If water-colors have been a popular success, oils would infallibly be an equal success.

THE POLICE POLICY OF MAYOR GAYNOR

On the date of this issue of The Outlook William J. Gaynor succeeds George B. McClellan as Mayor of the city of New York. That Mr. Gaynor is to be Mayor for the next four years is due in part to his attitude toward the vital question of police administration. He owed his nomination, if not his election, in no small degree to the part he took in the proceedings which resulted in the dismissal of Commissioner Bingham, the most efficient head the Police Department of New York ever had. It was because he asserted that the police under Commissioner Bingham had been arbitrary and tyrannical in the case of a Brooklyn boy that he won popular approval in certain quarters which furthered the movement for his nomination. Since, therefore, as Mayor Mr. Gaynor will be called upon to justify himself in no one particular more than in his management of the Police Department, it is of consequence that those who wish to understand Mr. Gaynor's administration should understand the police principles he avows. Still further, since the police furnishes one of the most difficult and delicate problems of American municipal government, these principles should be known to all who are concerned with the improvement of government in any American city.

Elsewhere in this issue Mr. George W. Alger, a member of the New York

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bar, whose writings in The Outlook and the "Atlantic Monthly" and in book form on the relation of law to social problems in America have been marked by poise, vigor, and progressiveness, explains the views for which Mr. Gaynor stands. He finds that these views are based on certain fundamental principles of liberty which, after many life-and-death struggles, have become embedded in the political institutions of English-speaking peoples. Mr. Gaynor and his course could have found no abler defense than is furnished by this paper.

The principles, expressed in maxims upholding the right of citizens to be free from arbitrary arrest, to be secure in their houses, and to be at liberty to gather and speak their minds, are not in these days to be questioned. That the police have, on occasions, violated these fundamental principles we do not doubt. But we do most strongly deny that the way by which the principles can best be put into practice is by cultivating sentimental sympathy with the accused, by allowing indiscriminate assemblage, and by creating public distrust and suspicion of the police. The remedy for police abuses lies in other directions.

In the first place, the remedy is not to be obtained through sentimental sympathy with the lawbreaker or any class of lawbreakers. The sentimentalist sees the individual before him, but he does not see society; he is concerned for the comfort of the visible prisoner, while he forgets the security of the invisible but equally real mass of men and women and children. The processes of law, which had their origin at a time when government was irresponsible, and therefore governmental authority was naturally regarded as tyrannical, provide a safeguard for the accused that is stronger than the weapon they provide for a wronged and endangered community. If sympathy is to be exhibited at all, it should be on behalf of society. The peril to society to-day in American cities is not from a too strong government; it is from a government not strong enough to cope with the criminal and anarchic forces which exist in every great city on the Continent.

In the second place, the remedy for the unwise suppression of public speech is not in wholesale and indiscriminate permission of assemblage and discussion in streets and public places. The principle of free speech does not entitle any group of people to speak where and how they will. It may have been unwise or impolitic to prohibit a particular gathering in Union Square, but it was not violative of the right of free speech or assemblage. The repression of free speech or assemblage is one thing; the prevention of indiscriminate gathering and talking in places devoted to traffic or recreation is quite another. When the police cease to regulate traffic in the street, and to exercise discretion in keeping order in public parks or squares, they will be grievously impaired as an instrument of social service.

Finally, the remedy for police abuse will not come in creating public suspicion and distrust of the police. So far from remedying such abuse, distrust and suspicion can only tend to increase it. One reason, for example, why the testimony of policemen is not regarded with more confidence in American courts is that the police have been taught by the American people themselves to have little respect for their own word. Policemen are human, and if they were treated in courts with the respect to which their position as defenders of the public safety entitles them, they would be more trustworthy. The way to make the police less arbitrary and tyrannical is to make them more efficient. He who expects to minimize the evils of police tyranny by weakening the police force is going the wrong way to work. It is only by making the individual policeman really subordinate to his nominal superiors, by making the tenure of office of those who are in command over the police more secure than that of those who obey, and by making the police sufficiently powerful to be efficient and then absolutely responsible to the people whom they serve, that the city will secure a force that will put fear into the hearts of only evil-doers. The remedy for the occasional evils which Mr. Alger describes is not a weakened police force nor constant interference with the work of the police by the courts, but a police responsible to its commander-in-chief, and a commander-in-chief equally resolute to protect private rights and to insure public order and safety.

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MR. GLADSTONE

On Wednesday of this week is celebrated the hundredth anniversary of the birth of William Ewart Gladstone. In a later number of The Outlook the British Ambassador to the United States, Mr. James Bryce, will give our readers an article of personal reminiscence and political estimate. Meanwhile we may here briefly point out some of the things which made Gladstone a statesman rather than a mere political leader.

A politician rarely looks beyond the next election: immediacy his end, expediency his guide. The statesman is a man both of vision and of principle; he is far-sighted, seeing the end from the beginning, and in the endeavor to secure that end he is guided by fundamental principles. Gladstone was a Christian statesman because throughout his career Christian achievement was his end and Christian principle his guide. The contrast between Gladstone and Disraeli was graphically described by "Punch" in a famous cartoon in which Gladstone's great rival was portrayed as skillfully balancing himself upon a tight rope. No one would have dreamed of so cartooning Gladstone.

Early in his career he discovered the signs of the times—the irresistible rise of a not unguidable democracy and the not distant demise of a senile and enfeebled feudalism. An aristocrat by birth and breeding, and always an aristocrat in his tastes, he left the party of aristocracy to devote himself to the cause of the common people. His aristocratic contemporaries never forgave him, and he remained throughout his life the most hated as well as the best loved man in English politics. An aristocrat, he became the leader of democracy; a gentleman of culture, he became the representative of the unlettered and the ignorant; a Protestant, he became the emancipator of Roman Catholics; a High Churchman, he became the political partner of the Nonconformists; in every fiber of his being Anglo-Saxon, he became the defender of equal rights for the Irish. He resigned public office when to his contemporaries his resignation did not seem to be required by principle and did seem both to them and to him to involve the end of his political career. The causes which he espoused were generally unpopular when he espoused them and became popular through his espousal. Americans find it difficult to comprehend the hysteria of public wrath which was visited upon him because he advocated the disestablishment of the Protestant Church in Roman Catholic Ireland and some measure of local self-government for the Irish in their own island. In espousing the extension of the suffrage to the common people and the extension of popular education to prepare them for it he knew, as did his opponents, that he was dealing a death-blow to the archaic institutions of feudalism which England had inherited from the past. As his spirit of humanity overleaped all caste and class lines, so also all geographical and national lines. To the eloquence of his impassioned appeal against the atrocities of King Bomba scarcely less than to the diplomacy of Cavour, the statesmanship of Ferdinand, and the sword of Gavazzi does Italy owe her emancipation.

Our prejudices are the enemies we find it most difficult to conquer. In urging the admission of Jews to Parliament and the submission of the Alabama claims to arbitration Mr. Gladstone conquered prejudices which he shared with his fellow-countrymen. It was this victory over his own prejudices which gave color to the statement of one critic, "Gladstone's method of impartiality is to be furiously on both sides of a question." It was his recognized devotion to principle that led a more friendly and a more discerning critic to say of him: "His religious opinions, in which he is zealous and sincere, enter so largely into his political conduct as to form a very serious obstacle to his success, for they are abhorrent to the majority of this Protestant country." That majority he led, not by falling in with their prejudices, but by overcoming them.

Abraham Lincoln left as his monument a reunited Nation and an emancipated race; Bismarck, a great Germanic Empire, made by the fusion into one nationality of jealous and sometimes bitterly hostile provinces; Cavour, an Italy rescued by skillful diplomacy from intolerable bondage and restored to something like its early national life. Gladstone left no such single monument. But he left to England as the fruitage of his life the fol-

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lowing achieved reforms, in all of which he took a prominent part, most of which would not have been accomplished in his century but for his life:

The emancipation of the Roman Catholics.

The admission of Jews to Parliament.

The abolition of religious tests in the universities.

The extension of the suffrage.

The disestablishment of the English Church in Ireland.

The first steps toward self-government for the Irish.

Popular education.

International arbitration.

The liberation of Italy.

The impulse toward that constitutional government in Turkey which he did not live to see accomplished.

And, what is more important than all else, a life so pure, a patriotism so unselfish, a humanity so broad, a courage so undaunted, and all sustained and inspired by a religious faith so simple and sincere, that the story of his life will long remain a rebuke to the cynic and an inspiration to the faithful—a demonstration not to be gainsaid that the Ten Commandments and the Golden Rule are not an iridescent dream in the politics of a democracy.

THE CORPORATION TAX

It is the custom of The Outlook to give to its readers the ablest presentation it can secure on both sides of publicly debated questions; it is also its custom to accompany such presentation with its own opinion frankly and briefly stated. It accordingly, on November 20 last, gave to its readers, in an article from the pen of Mr. Charles W. Pierson, an able legal argument against the constitutionality of the Federal Corporation Tax; and it presents in this issue an able argument from the pen of Mr. Hugh A. Bayne in support of the constitutionality of that tax. It leaves its legal readers to compare these two articles and to come to their own judgment upon the issue involved. But it here states, for the benefit of its lay readers, the reason why it agrees with Mr. Bayne's opinion that the tax is Constitutional.

The Constitution of the United States gives Congress power "to levy and collect taxes, duties, imposts, and excises," subject to three qualifications: (1) Direct taxes must be apportioned according to population; (2) no duties can be imposed on articles exported from any State; (3) all duties, imposts, and excises must be uniform throughout the United States. The corporation tax is uniform throughout the United States because it is levied equally on all corporations in all the States. It is not imposed on articles exported from any State. The only question remaining to be considered is whether it can be regarded as a direct tax which must be levied according to population. As the corporation tax is not a tax on property, but "a special tax with respect to the carrying on or doing business by such corporation," we do not believe that it will be held by the courts to be a direct tax within the meaning of the Constitutional limitation.

This brief and therefore necessarily inadequate statement may serve the purpose of such of our readers as do not desire to go into this question more fully. But we hope that it will have the effect to send most of them to a careful reading of the full, clear, and convincing statement of Mr. Bayne.

THE LARGER REASON

There has been a good deal of arrogant dogmatism in some of the men who have been upholders of the Christian view of life, and there was justification for Professor Huxley's pugnacious declaration that the corpses of theologians are piled high around the cradle of every science. It has become the habit of many people to assume that dogmatism is the exclusive possession of religious people, and open-minded intellectual integrity and courage the characteristics of those who reject Christianity. This assumption of the superior honesty and intelligence of skeptics and agnostics has so imposed on many believers in Christianity that they hold the faith in an apologetic spirit, as if there were a trace of intellectual inferiority in accepting the Christian creed and interpretation of a life. A man of intellectual distinction who counted himself an agnostic said, not long ago, of an equally distinguished man who was an ardent

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Christian, "I don't see how it is possible for so able a man to believe the fairy-tale of Christianity. He cannot be entirely sincere." This assumption that a man or woman of superior intelligence must be a skeptic overshadows the faith of many good people and blights its radiancy.

It is well to remind ourselves from time to time that Christianity is not the refuge of those who lack the courage to face the facts of life or the comforting fairy-story of half-educated men and women who have not discovered that they are pinning their faith to traditions which the wise and brave have abandoned. It is true that there has been a good deal of arrogant dogmatism among theologians, but the scientists of a kindred type of mind have developed an equally insolent temper toward those who differ from them; and it has been often remarked that those who lay great claim to liberalism are often conspicuous for narrowness and dogmatism. The attitude of intellectual superiority taken by some men and women who regard themselves as emancipated from popular errors is as arrogant and baseless as was the dogmatic assertion of infallibility on the part of some of the older theologians; there is a great deal of intellectual pretension combined with shallowness of knowledge and of thinking among those who reject Christianity on the ground that it is, for men and women of intelligence and intellectual power, an outgrown superstition.

For honest doubt every honest man, whatever his creed or lack of creed, must have the greatest respect. Honest doubt involves intellectual life, vital interest, a stirring of the spirit, and is far better than indolent acceptance or the acquiescence which is merely falling into the way of thinking of one's family or the sentiment of one's neighborhood. But the honest doubter does not make a virtue of his doubt and wear it as a sign of intellectual superiority. He is a reluctant doubter, and far from eager to destroy the faith of others. His attitude is that of the son who goes sorrowfully out of his father's house because it seems to him no longer habitable; he does not advertise the decay of the home of his spirit, nor is he eager to make other people as homeless as himself. The doubters of this temper have something to say which cannot be ignored; they raise questions which the honest believer must face with kindred frankness and courage.

But the assumption of the intellectual superiority of doubt over faith is born of another spirit, and is pure arrogance; it ought not to chill any man's faith or blight any woman's hope. It has no claim to recognition as something to be reckoned with; it has no authority to challenge belief as if it were the custodian of truth. There are fundamental differences of view about those things on which Christianity builds its faith; there is room for honest questioning of belief in a loving Father, an ordered moral world, personal immortality; but it is sheer arrogance to assume that the religious view of life is so entirely on the defensive that those who hold it must explain how faith can be reconciled with intelligence. The time has not yet come when the love of God and loyalty to Christ must be accepted as badges of intellectual inferiority. The evidence of God's love and care is not yet relegated to the custody of those who believe without investigation and put aside their intelligence in order that they may ease their hearts.

The Gospel is for the poor and needy, and there are none so poor and needy as those who reject it because they think they have outgrown it intellectually. It is often revealed to the obscure and lowly because it reveals itself through the vital experiences of life and proves its reality by fulfilling its promises of light and help in the great crises of life. But it is justified in the court of reason, and faith rests squarely and solidly on the largest and most courageous use of reason, not in the narrow sense in which some so-called rationalists use that word, but in its largest and most inclusive meaning—the full play of all the human faculties, the full reach of all human knowledge. A deep and vital faith is the affirmation of the entire nature of man—his heart, his brain, his knowledge, his experience, his intuitions, his divinations, the revelations of his vision in the divinest moments of his life.

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THE IMPROVEMENT OF AMERICAN WATERWAYS

BY PRESIDENT TAFT

An Address delivered at the Sixth Annual Convention of the National Rivers and Harbors Congress, at Washington, D. C., December 8. Stenographically reported, and printed from the notes officially revised for publication in The Outlook

I DON'T know that I have any right to be here to talk about waterways, unless it makes a man an expert on the subject to have gone down the Mississippi River. The dangers to which one was exposed on that journey, by reason of the shoals and the other obstacles and temptations of the journey, certainly offered an opportunity for careful study and deliberation. Now I think I am a sufficiently established resident of Washington to make what I have to say an address of welcome. I am delighted that you selected Washington as your place of meeting. You have done it wisely, first, because when you want a thing done, it is just as well to get close to the man that is to do it; and, second, Washington is always a good place to come to, and you can induce the ladies of the family to come with you, which is always an assurance of both work and pleasure.

I congratulate this Congress on having brought the subject of waterways to such a point that the representatives in Congress, from one end of the country to the other, recognize it as a subject that calls for action. They have not come to a definite conclusion as to the policy that ought to be adopted, but they have come to the conclusion that some policy must be adopted with reference to the development of those instrumentalities which nature has furnished for the transportation of goods and for the controlling of railway rates.

You, in your declaration, say that you are in favor of a policy, and not in favor of any particular project. I think that a wise platform to take; and yet, when it comes to the practical enforcement and accomplishment of something, you have got to get into projects. You may insist that a policy ought to be adopted, and you have insisted, and I do not doubt that you have—indeed I know you have—made that distinguished member of Congress, the head of the Rivers and Harbors Committee, sit up nights to devise a policy which shall be presented to the country and satisfy the demands that have arisen in such a—I had almost said unanimous—way the country through. But you are coming near now to the detail of projects.

One has to travel over the country to find out what the country is thinking about. You go into the Northwest, and you find the development of the Columbia River one of the great projects of many who live in that neighborhood. You go into far-distant Texas, and you find that they have an inland waterways project there, reaching into Louisiana, into the bayous of Texas, and down along the Gulf, that has demonstrated its usefulness as to part, and that only needs further addition and improvement to carry out a great system of waterways there that shall reach farms and plantations that are even beyond railways now. And so, as you come up the eastern shore of this country, you find the inland—I don't think they call it inland waterways exactly, but it is the inside waterway—the Atlantic Deeper Waterways Association. Now, it is well that there is in almost every part of the country a project of that sort to awaken the interests of those who live in that part of the country; for while we are all patriots, and while we are all in favor of all the country, we are just a little more intensely in favor of that which is nearest than we are in favor of that which is very far away. The danger to this movement, the test of the value of the movement, is going to be seen when you get off that very safe platform, that you are in favor of a policy and not in favor of a project,

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and get down to the business of pushing projects.

One of the things that I think we ought to do is not to decry the past. It is to take from the past that which is valuable and build on it. The trip down the Mississippi River was an eye-opener to many of us. The work which has gone on at the end of the river and near its mouth, up along the banks in Mississippi and Louisiana, and up into Arkansas, is a work that commends itself to every one who sees it. It is work in the direction both of the preservation of farms and the establishment of a great waterway there. The work which has been done by the National Government through its army engineers in strengthening the banks of that river is a work of experimentation, but work which has now demonstrated the possibility of treating that river in such a way as to hold the banks and, keeping the river within the banks, to insure a reasonable depth where steamers may go.

Then we have had an investigation by the army engineers into the practicability of deepening to six feet the Missouri River from Sioux City to St. Louis; of deepening the Mississippi River from St. Paul to St. Louis; of deepening and keeping at an eight-foot depth the river from St. Louis to Cairo; and also of a project for the maintenance of a nine-foot depth the year round in the Ohio River. [Laughter and applause.] I recognize the gentlemen who applaud that as coming from the Columbia River district, and illustrating that disinterested enthusiasm that is certain to carry all the projects through. [Laughter and applause.]

Now, I don't think I betray a secret when I say that the gentleman who has most to do with the initiation of projects in Congress is fully charged with the necessity for doing something in the next Congress to foreshadow, or rather to begin, a policy with respect to those rivers. You have the Missouri, the upper Mississippi, the Mississippi between St. Louis and Cairo, and the Ohio between Pittsburgh and Cairo, all of them satisfying the requirements that you have to put in your platform with respect to the improvement of the waterways. That is an improvement in the heart of the country, an improvement that reaches to more States than any other improvement that can be mentioned in this entire country. It affects not only the States along whose borders the improvements will be made, but it affects all the States along the borders of the Mississippi beyond Cairo, for the project will also include and must include the investment of a sufficient amount of money to keep the nine-foot stage always between Cairo and New Orleans.

I am aware that there are a great many gentlemen in this country who are in favor of something more than nine feet between Cairo and the Gulf, but you have got to get nine feet before you get fourteen. When you once get that system that I have outlined into operation so as to show the benefits that can be derived from it, what will go on thereafter no man can foresee. The truth is that the engineers will tell you that after you have harnessed the Mississippi River by protecting its banks, no man can tell what the depth of that river will be made by the river itself confined within reasonable banks. In other words, what I am urging, what I am laboring for, is something practical in the way of a moderate project in order that you may go on and gradually develop a larger project than that which was in your minds at its initiation; that you do something practical by taking the materials that you have, and, as you go on and as the business increases, demonstrate to those in the country who are not so near to that improvement its advantage to the entire country in the reduction of railroad rates and in the actual transportation of that kind of business that the river will attract.

Now, speaking to this assembly—I think it was this assembly (we have got so many congresses in favor of so many good things that sometimes there is a little difficulty in distinguishing, and when you all meet together in Washington at the same time there is danger of mistaken identity as to associations)—but, at any rate, a year ago President Roosevelt and I were together on a platform, before the Conservation of Resources Convention, I think it was, in which we both advocated the issuing of bonds, in order that a project improving waterways, when begun, should be completed in a reasonable time.

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Now I am still a consistent advocate of that theory. I believe that the Government is entitled to as rapid a method of developing an enterprise and putting it through as private corporations, and, as they always issue bonds, or generally do (some of them are fortunate enough not to have to), in order to expedite the completion of these projects, it would seem wise for the Nation to do so where it will accomplish the same result.

But I want to suggest a word of caution. You are going to encounter in Congress great opposition to the policy of issuing bonds right out of hand. You are much more likely to get from Congress a declaration of policy in the shape of a declaration that a certain improvement ought to be carried out and spread upon the minutes of Congress in the form of a resolution or a declaration in a statute. Now, what I advise you to do is to get that declaration. Then, when the time comes that political exigency shall prevent the appropriation of enough from the current revenues to put the proper part of the project through the coming year, or the coming two years, as economy requires, then the question of issuing bonds will arise. I would get the declaration first, and not have the bonds first, for the reason that you will encounter the objection by Congress that the issuing of bonds and the receipt of the money will develop a desire to be extravagant. That may not meet your views, but I have thought it over, and I know something about Congress. I know where you are going to encounter opposition, and I believe the best way is the natural way with those gentlemen. You lead them on to declare in favor of the Missouri improvement, in favor of the St. Louis to St. Paul improvement, in favor of the Cairo to St. Louis improvement, in favor of the Ohio improvement, all of which have been approved by the army engineers, and get them recorded in the statutes of this country as declaring that those things are to be carried out, and let them make their first appropriation from the revenues of the country, and then you have them where they must issue bonds, unless the revenues afford a sufficient amount each year to carry that project on economically and with due rapidity.

I tell you, gentlemen, you are getting—as the boys and girls used to say in hunting a button—you are getting warm. You are at a point where you can accomplish something if you don't stop it by doing it the wrong way. I don't feel justified in giving advice to a body like this on a subject which they have studied so much, or I should not feel it except that I have had pretty close association as Secretary of War and otherwise with the army engineers who have given their lives to the study of these improvements.

I know those army engineers very well. Doubtless you do, as you have met them in the districts to which they were assigned. I venture to say that in your whole experience you have never met men of a higher standard of character, of a higher devotion to public duty, and of greater skill in their profession than those same army engineers. They are selected from the first ten or the first five of the graduates of West Point, and they have a little ring in the army, which I might betray to you by reason of some inside information. If a class comes out that has not developed very good material in the way of engineers and mathematicians, somehow or other the Chief of Engineers advises the Secretary of War that for that year they do not need any particular addition to the corps; and so it is that they have acquired a greater portion of the mathematical and engineering ability of those who were graduated from West Point than they really were entitled to. They have gone on, and, with but one exception, their record is clear in the honesty, and I had almost said the severity, with which they have expended the Government's funds, and have seen to their being put into material at a cost which was an honest cost. But it has been said that they were crotchety; that at times they did not apparently catch the sound of progress; that they were slow sometimes in the building up of improvements. I am not prepared to say that those criticisms with reference to individuals were not well founded. You cannot take a great corps like that, numbering as it does a great many officers within it, and not find men who fail to keep up with the procession; but I am very sure, from talking with General Marshall and with a number of the other men at the head of the corps, that they are fully

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charged with the increased interest in this country among the people and among the business men in the development of the inland waterways, and that you could not have a safer body of men to advise than the army engineers.

I count it one of the great good fortunes of this country that when the country had to build the Panama Canal, after using the great ability of civil engineers, we finally settled down upon the army engineers to carry that project through.

So it is with respect to the waterways. They have recommended to the Chairman of the Waterways Committee in the House a system of improvements that I believe will meet the judgment of this Convention, if it be moderated to the possibilities of what can be accomplished. I think you can secure upon the statute books of this country a declaration in favor of continuing contracts to build the four or five projects which the engineers have recommended in such a way that, even if you do not get the bonds voted at first, if the time arises when the revenues will not permit their use—I mean the current revenues—to continue that work with reasonable rapidity, you can move upon the Government for the issuing of bonds. I would make the fight for bonds when the conditions strengthen the argument in their favor. It is a strong argument that you will have to meet: that, if you are going to issue a large amount of bonds just for the purpose of putting them into the waterways as their necessity may develop, then there is a temptation to extravagance. Perhaps it is my judicial experience, but I always feel as if you ought to shape your policy, in order to win, not according to the enthusiastic suggestions of your imagination, but in order to overcome the obstacles that you are likely to encounter in winning the end which you seek.

And, now, ladies and gentlemen, I am very much obliged to you for giving me such attention. I realize that what I have said comes from the lips of a mere tyro, but it comes from one who has some temporary responsibility in respect to the matter, and from one who is thoroughly in sympathy with the general object which you feel here, to wit, the development of all the waterways of this country by a general policy in such a way as to reduce and control railway rates, and in such a way as to stimulate upon the bosom of the waters the transportation of such merchandise as is peculiarly fitted to that character of carriage.

IS THE FEDERAL CORPORATION TAX CONSTITUTIONAL?[1]

BY HUGH A. BAYNE

OF THE NEW YORK BAR

EVEN the distinguished editor of The Outlook, in his editorial comment on Mr. Pierson's article on the constitutionality of the so-called Federal Corporation Tax, exhibited the misapprehension, very generally entertained, that the tax was imposed by Congress in the exercise of its power to regulate commerce between the States.

But the tax is imposed alike on corporations and joint stock companies engaged in inter-State business and on corporations and joint stock companies whose business activities are confined wholly to one State. The sponsors of the Act have never claimed, and, it may be confidently asserted, never will claim, that the right of Congress to levy the tax is derived in any respect from the commerce clause of the Constitution.

The power to levy and collect the tax is wholly derived from Article I, Section 8,

[1] An answer to Mr. Charles W. Pierson's article in The Outlook of November 20, 1909.

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paragraph 1, of the Constitution, providing that Congress shall have power "I. To levy and collect taxes, duties, imposts, and excises. . . ."

Some readers may not be aware that, under this grant of power, Congress may tax not only imports, liquors, and tobacco, which are the usual subjects of Federal taxation, but every subject of every nature and description known to the taxing power of the several States, including real and personal property, occupations, businesses, privileges, consumption, licenses, sales, and transactions of every kind and description. Indeed, the taxing power of Congress is not only co-extensive with, but less limited (except as the Constitution limits it) than that exercised by the States under the various limitations of their several State Constitutions.

The sole limitations upon the taxing powers of Congress found in the Constitution are that direct taxes (which include poll taxes, taxes on real estate and personal property, and on the income of real and personal property[1]) must be apportioned according to the population (Art. I, Sec. 2, paragraph 3, and Sec. 9, paragraph 4); that no duties shall be imposed upon articles exported from any State (ib., par. 5), and that duties, imposts, and excises (which include all forms of taxation not direct) "shall be uniform throughout the United States" (Art. I, Sec. 8, par. 1).

There is implied, from our dual system of State and Federal Governments, one more limitation, namely, that neither Government may tax those agencies or instrumentalities of the other which are essential to its preservation as a government. This implied limitation goes no further, however, than to forbid either Government from imposing a tax *directly* impeding the exercise by the other, or by the agents or instrumentalities of the other, of its *strictly governmental* functions, "such as the right to pass laws, to give effect to laws through executive action, to administer justice through the courts, and to employ all agencies for legitimate purposes of State government."[2]

As Mr. Pierson has pointed out, Congress cannot tax a municipal corporation (being a portion of the sovereign power of the State) upon its municipal revenues;[1] it cannot tax the salary of a judicial officer of a State;[2] it cannot tax a bond given, pursuant to law, to the State by the licensee of a liquor license to secure his performance of his obligations to the State as such licensee.[3]

> These decisions . . . indicate that the thought has been that the exemption of State agencies and instrumentalities from National taxation is limited to those which are of a strictly governmental character. . . .[4]

The foregoing language was used by Mr. Justice Brewer, after citing the above cases, in his opinion in South Carolina vs. United States (199 U. S., 437), where the right of Congress to impose a tax on the carrying on of the business of selling liquor, which the State of South Carolina "in the exercise of its sovereign power has taken charge of,"[5] was upheld on the ground that the function of selling liquor, though exercised by the State, was not strictly governmental in character.

We now come to Mr. Pierson's attack upon the constitutionality of the so-called Corporation Tax. It will be well to keep its principal provisions before us. They are as follows:

> That every corporation, joint stock company, or association, organized for profit and having a capital stock represented by shares, and every insurance company, . . . shall be subject to pay annually a special excise tax with respect to the carrying on or doing business by such corporation, joint stock company or association, or insurance company, equivalent to one per centum upon the entire net income over and above five thousand dollars received by it from all sources during such year. . . .

Mr. Pierson says, in substance, that he concedes that the foregoing tax is an excise tax; that an excise tax on the exercise of "the privilege of doing business" would be a valid Federal excise tax; but that this tax is not imposed on the exercise of "the privilege of doing business," but rather on the exercise of "the privilege of doing business *in the corporate form*;" that this latter privilege is a franchise derived wholly from the State which granted the corpora-

[1] Pollock vs. Farmers' Loan and Trust Co., 158 U. S., 601.
[2] Veazie Bank vs. Fenno, 8 Wall., 533.

[1] United States vs. Railroad, 17 Wall., 322.
[2] Collector vs. Day, 11 Wall., 113.
[3] Ambrosini vs. United States, 187 U. S., 1.
[4] 199 U. S. at p. 461.
[5] 199 U. S. at p. 447.

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tion's charter of incorporation, and that Congress may not burden the exercise of this privilege, even when employed in connection with the doing of business, with a tax, without invading the Constitutional barrier of the State's sovereignty.

Conceding, merely for argument, that the tax is imposed on the exercise of "the privilege of doing business in a corporate form," the present writer claims that Congress has power to tax the exercise of such a privilege.

Obviously, the exercise of a privilege to do business in a corporate form is not the exercise of a "strictly governmental" function. It is not the exercise of a governmental function at all. It is the exercise of a private privilege conferred by the State on private persons to facilitate the conduct of private business. Therefore it does not fall within the implied limitation upon the taxing power of Congress. It matters not that, to the extent of the Federal tax, the value of the privilege conferred by the State is indirectly diminished, or that, by making the tax on the exercise of the privilege sufficiently large, its exercise could be practically prevented. To that extent the States consented that the exercise of private privileges conferred by them might be burdened when they conferred on Congress plenary powers of taxation.

If the indirect (though practical) curtailment of the powers of a State which might result from Federal taxation constituted a Constitutional barrier against the exercise by Congress of the taxing power, it could be argued with far greater force that Congress could not tax the subjects selected by a State for taxation. No one will maintain such a proposition. Yet by taxing all of the subjects of State taxation to the limits of their capacity to respond, Congress could wholly withdraw from the State its sources of revenue, for, "in the case of a tax upon the same subject by both Governments, the claim of the United States must be preferred." [1]

The reader need not be aghast at the destructive power here disclosed. There is a practical limitation upon abuses of that power; but it is not to be found in any supposed Constitutional barrier of State sovereignty. It resides in the fact that the Congress is not an alien government. It is composed of the representatives of the several States, and there is little danger that they will use the power of taxation in a way to destroy the State governments of the people who choose them.

The writer has been unable to find any decision denying to Congress the power to impose excise taxes on the exercise of private privileges or franchises conferred by the States.

He has found a number of decisions recognizing the right of Congress to tax the exercise of such privileges.

In Knowlton vs. Moore [1] it was claimed that an excise tax imposed by Congress upon the enjoyment of the privilege of taking property by inheritance invaded the Constitutional barrier of the sovereignty of the State which conferred the privilege.

The Court, after quoting with approval one of its previous opinions, holding that "the right to take property by devise or descent is a creature of the law and not a natural right, . . ." conceded that a tax imposed by Congress on the enjoyment of that right "certainly . . . diminishes to the extent of the tax the value of the right to inherit or receive," but unanimously rejected the contention that this would invade the Constitutional barrier of the sovereignty of the State which conferred the privilege. The Court held that the tax was a burden cast upon the *recipient* of the privilege or right, and not upon the power of the State to grant, withhold, or regulate the privilege or right.

While the force of the decision in the case of Veazie Bank vs. Fenno,[2] upholding the statute which taxed out of existence the circulation of the State banks, is weakened, in connection with the present discussion, by the fact that the second reason given by the Court for sustaining the validity of the tax was that the power to impose the tax was derived from the power of Congress to provide a uniform currency, the first ground given was that Congress had authority, under the taxing power, to impose a tax on the exercise of a privilege derived from a State. It was strenuously argued that Congress could not impose the tax without invading the

[1] 18 Wall. at p. 29.

[1] 178 U. S., 41, at p. 44.
[2] 8 Wall., 533.

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Constitutional barrier of State sovereignty. Two judges dissented on that ground. But the other five rejected the contention, and, while they held that the tax was upon the *exercise* of franchise rights derived from the State, as distinguished from a tax upon the franchise itself, regarded as property (just as was held in Knowlton vs. Moore, supra), expressed the following views:

> It may be admitted that the reserved rights of the States, such as the right to pass laws, to give effect to laws through executive action, to administer justice through the courts, and to employ all agencies for legitimate purposes of State government, are not proper subjects of the taxing power of Congress. But it cannot be admitted that franchises granted by a State are necessarily exempt from taxation, for franchises are property, often very valuable and productive property, and when not conferred for the purpose of giving effect to some reserved power of a State, seem to be as properly objects of taxation as any other property. [p. 547.]

It is not necessary, in order to sustain the validity of the so-called Corporation Tax, to sustain the proposition quoted above; for that tax is not levied directly on the corporation's privileges, as such, regarded as property, but only (if we admit Mr. Pierson's contention) on the *exercise* of the privileges in connection with the doing of business. But the writer believes that a tax levied by Congress directly on corporate franchises regarded as property would not invade the Constitutional barrier of State sovereignty so long as the franchise taxed was not one granting the right to discharge functions strictly governmental in character.

In the following cases the Supreme Court upheld the constitutionality of excise taxes imposed by Congress on the exercise of State-conferred franchises or privileges. While it is true that the opinions do not discuss any contention that the taxes invaded the sovereignties of the States which conferred the privileges, that point was necessarily involved, and the decisions would have been the opposite unless that contention had been rejected.

In upholding the constitutionality of the tax on the sales of shares of stock of State corporations,[1] the Court clearly recognized the right of Congress to tax the exercise of corporate privileges derived wholly from the States; for the Court accepted the contention of the Assistant Attorney-General that "the tax is laid upon the privilege afforded the owner of the stock, *under and by virtue of the laws of the State authorizing the formation of the corporation*,[1] to sell or dispose of his property in the form of a certificate of stock."

An excise tax upon the business of corporations engaged in railway, turnpike canal, and other transportation businesses [2] was upheld, although individuals and firms engaged in the same kinds of businesses were not taxed.

A Federal excise tax laid on the exercise of the privilege (when granted by the State) of selling lottery tickets and liquors,[3] on the insurance business, conducted by a corporation,[4] and on the sugar refining business, conducted by a corporation,[5] were declared to be Constitutional exercises of the taxing powers of Congress.

Mr. Pierson himself concedes that the exercise by a corporation of its "privilege of doing business" may be taxed by Congress. Having conceded this much, it seems to me that he has conceded everything; for the "privilege of doing business" is, in the case of a corporation, not a natural right, but is a privilege or franchise wholly derived from the State in the exercise of its sovereignty.

What becomes, therefore, of his contention that the exercise of "the privilege of doing business in the corporate form" cannot be taxed by Congress because it is a privilege wholly derived from the State? It is no more derived from the State and subject to its regulation than the corporation's bare "privilege of doing business."

Mr. Pierson cites the following cases to show that the exercise of privileges conferred by the Federal Government cannot be taxed by the States. He argues, by analogy, that Congress cannot tax privileges of the same kind conferred by the States.

In California vs. Central Pacific Railroad [6] Congress denied the right of a State

[1] Thomas vs. U. S., 192 U. S., 363.

[1] Italics are the writer's.
[2] Railroad vs. Collector, 100 U. S., 595.
[3] License Tax Cases, 5 Wall., 462.
[4] Pacific Ins. Co. vs. Soule, 7 Wall., 433.
[5] Spreckels Sugar Refining Co. vs. McClain, 192 U. S., 397.
[6] 127 U. S., 1.

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to levy a tax on the franchises granted to an inter-State railway chartered by Congress. The franchises, while they in part conferred the right on the Company to conduct a private railway business, in part delegated to the railway the governmental function of carrying on commerce between the States and of carrying mails, troops, and Government stores. The tax was therefore, in part at least, laid upon an instrumentality of Government, and curtailed its exercise of governmental functions. Hence it fell within the exceptions which we have referred to. It may be noted in passing that the tax was levied *directly* upon the franchise as property, not merely on the doing of the Company's railway business in the corporate form.

Had the tax been upon the roadbed, rolling stock, or other private property of the Company, the State would have had power to levy it.[1]

The decisions cited by Mr. Pierson denying the right of the States to tax patent rights[2] and copyrights[3] granted by the United States would tend to support the proposition that the States cannot tax the exercise of private privileges granted by Congress, if patent rights and copyright are to be regarded as private privileges. (It is not denied that the States may tax the sales[4] or forbid the sales[5] of patented articles.)

That patent rights are private privileges, and hence taxable by the States, in spite of the fact that the Federal Government confers them, was argued in the first case[6] cited by Mr. Pierson on this subject. But the Court rejected the contention, calling attention to the fact that Chief Justice Marshall, in McCullough vs. Maryland,[7] classified patent rights with the mails, the mint, and judicial process as means of government. Without expressing its own views on the correctness of the classification, the Court seemed to feel bound by Justice Marshall's dictum, and by the decisions based thereon, to treat patent rights as governmental instrumentalities. As such they would fall within the implied limitation referred to.

But even if patent rights were private rights conferred by Congress, a distinction might be drawn between the right of the States to tax these privileges and the right of Congress to tax State-conferred private privileges, as follows: The surrender by the States to Congress of the power to grant patent rights and copyrights was complete and without reservation, and therefore the States surrendered so much of their taxing power as empowered them to burden the enjoyment of patent rights and copyrights by taxing their exercise. On the other hand, the power retained by the States to grant and regulate the exercise of private privileges was retained subject to the power of taxation which they surrendered to Congress—a power co-extensive with their own taxing power, operating on the same subjects of taxation and limited only by the expressed limitations of the Constitution and the implied limitation that Congress might not curtail the exercise of their functions strictly governmental in character. Therefore, while the States may not tax patent rights and copyrights, even if they be private privileges, Congress may tax rights private in character conferred by the State.

Chief Justice Marshall has suggested another distinction in his famous opinion in McCullough vs. Maryland,[1] as follows:

> It has also been insisted that, as the power of taxation in the General and State Governments is acknowledged to be concurrent, every argument which would sustain the right of the General Government to tax banks chartered by the States will equally sustain the right of the States to tax banks chartered by the General Government. But the two cases are not on the same reason. The people of all the States have created the General Government and have conferred upon it the general power of taxation. The people of all the States, and the States themselves, are represented in Congress, and, by their representatives, exercise this power. When they tax the chartered institutions of the States, they tax their constituents; and these taxes must be uniform. But when a State taxes the operations of the Government of the United States, it acts upon institutions created, not by their own constituents, but by the people over whom they claim no control. It acts upon the measures of a govern-

[1] Union Pacific Railroad vs. Peniston, 18 Wall., 5.
[2] People ex rel. vs. Assessors, 156 N. Y., 417; People ex rel. vs. Roberts, 159 N. Y., 70; In re Sheffield, 64 Fed. Rep., 833; Commonwealth vs. Westinghouse, 151 Pa., 265.
[3] 159 N. Y., 70.
[4] Webber vs. Virginia, 103 U. S., 344.
[5] Patterson vs. Kentucky, 97 U. S., 501.
[6] People ex rel. vs. Assessors, 156 N. Y., 417.
[7] 4 Wheaton, 404.

[1] 4 Wheaton, 405. See also Henderson vs. Mayor, 92 U. S. at p. 272.

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ment created by others as well as themselves for the benefit of others in common with themselves. The difference is that which always exists, and always must exist, between the action of the whole on a part and the action of a part on the whole—between the laws of a government declared to be supreme and those of a government which, when in opposition to those laws, is not supreme.

My conclusion is that the Constitutional barrier of State sovereignty is raised only against taxation by Congress which directly impedes the exercise by the States or by their agencies of the States' strictly governmental functions.

As Mr. Pierson's objection is that the Corporation Tax imposes a tax on the exercise of privileges pertaining to the corporate form, and as the corporation, in exercising those privileges, does not discharge a governmental function, but merely a private function, I conclude that the statute does not invade the Constitutional barrier of State sovereignty.

Heretofore, in order to discuss the question which I believe would interest the general public, I conceded, for argument merely, that the tax was imposed on "the privilege of doing business in the corporate form." I do not, however, believe that the courts will find that the tax is of that character. In interpreting a statute a court is not permitted to consider the opinion of its framers or sponsors, but must find its meaning in its language alone.

The statute states that the tax is imposed on corporations and joint stock companies "organized for profit and having a capital stock represented by shares," "with respect to the carrying on or doing business" by such corporations or joint stock companies. This is plain language.

Mr. Pierson concludes, however, that the tax was not intended to be imposed on the mere privilege of doing business, because the privilege of individuals and copartnerships to do the same business is not taxed, and that omission, he argues, would violate the requirement of the Constitution that excises shall be "uniform throughout the United States." But the "uniformity" limitation of the Constitution requires geographical uniformity only,[1] not equality, as Mr. Pierson seems to assume. Mr. Pierson would not claim, I feel sure, that the tax is not geographically uniform.

Also he takes no account of the fact that the Act similarly taxes the doing of business by joint stock companies which are partnerships and derive their privilege to do business with "a capital stock represented by shares" from the common law and not from statutory grants by the States.

If any attack is to be made on the statute based on the fact that corporations and joint stock companies "organized for profit and having a capital stock represented by shares" are singled out to be taxed on their privilege of doing business, that attack must be based on the claim that the basis of classification designated in the foregoing quotation is arbitrary, as to corporations, and deprives them of their property without due process of law.[1] It has been argued with great force by Senator Root[2] that, as the principle of this basis of classification is followed by a large number of States in imposing taxes, the Federal Government may adopt the same basis of classification without being guilty of arbitrary discrimination.

To say that corporations may not be classified according to their possession of "a capital stock represented by shares," because they derive that privilege from a State grant, while joint stock companies may, because they do not derive the right from that source, would be to hold that corporations are not only entitled to a protection of the laws equal to that accorded to joint stock companies, but that they are entitled to greater protection.

I do not agree with Mr. Pierson that "many good lawyers . . . have assumed, somewhat too hastily, that the tax in question was an excise tax on business or occupation like that involved in the Spreckels case, and that the only Constitutional question, therefore, was one of classification."

I believe that the tax is precisely of that character, namely, merely a tax on the doing of business, and that the only question involved is whether, in singling out for the tax corporations and joint

[1] Knowlton vs. Moore, 178 U. S. at pp. 84 to 106.

[1] Constitution, Fifth Amendment.

[2] See his speech in the United States Senate, delivered July 1, 1909.

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stock companies "organized for profit and having a capital stock divided into shares," Congress made an arbitrary classification depriving the corporations of their property without due process of law.

Be that as it may, even if the tax be imposed, as Mr. Pierson contends, not on the doing of business, but on "the doing of business in a corporate form," I believe that, nevertheless, it invades no Constitutional barrier of State sovereignty.

MAYOR GAYNOR AND THE POLICE

BY GEORGE W. ALGER

OF THE NEW YORK BAR

IN the period following the New York municipal election many prognostications have been made and are being made as to what kind of government the city will have under its newly elected Mayor. One thing is fairly certain. New York will have an experiment in police administration, which, whether it succeeds or fails, will be a study well worth while for those interested in that difficult subject. Mr. Gaynor as Mayor will name the Police Commissioner. He can be expected to select a Commissioner who will on general lines conduct his office in accordance with certain principles, for which the Mayor as a judge and citizen has stood steadfastly, in season and out of season, for twenty years. Whether those principles will succeed or fail is the experiment which New York will see demonstrated.

During a campaign filled with bitter personalities, Mr. Gaynor was represented to the public as a Judge who had been the "protector" of crime. The law reports were examined for campaign material. His decisions (and there are many of them) granting injunctions, restraining the police in certain of their efforts to suppress alleged disorderly resorts and gambling dens, were made to serve campaign purposes. All these cases were cited to show that under the régime of Mr. Gaynor, a man of an austere and serious type, the city would have a repetition of the "wide open" town which it had under the beef-eating, convivial "Bob" Van Wyck. It may be that these prophecies will prove true. If they prove true, they are likely to result, not from any special sympathy with vice, any belief in the philosophy of "liberality," on the part of the new Mayor. If New York has a wide-open town under Mr. Gaynor, it will come from a demonstration that his theory of police administration, of the functions and powers of police officers, is inadequate to meet prevailing conditions. For this reason, a study of that theory embodied in his decisions and public utterances may be of interest at this time.

There are certain ancient legal maxims embodied in the American law which come to us as the inherited result of conflicts between the English people and their rulers, and by which were established the rights of individuals against the oppressive power of kings and magnates. The Magna Charta gave us some of them; the struggle of the people against the despotism of Charles I and the more insidious despotism of Charles II gave us others. These legal maxims are something more than maxims; they are milestones in the history of English freedom. They have been written into our Constitutions, State and National, and form the very foundation of the law of the land. For centuries they were in England considered of priceless value and of unequaled importance. As the power of kings grew less, as in our own country the authority of the king and his royal governors was replaced by commonwealths governed by elective magistrates, as the police officer became a representative, not of an arbitrary hereditary ruler, but of the people through these elective officers, and as other problems of government came along to engross our attention, these old principles of law, while not

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obsolete, seemed less important and received less and less attention from the people. In the meantime, in our great cities police administration became corrupt. It is upon the police power of the King and the State, now represented in our cities by the police officer, that these old maxims were intended to be limitations. The right to be free from unreasonable searches and unwarranted arrests, these and other maxims of the same kind were calculated to preserve liberty for the citizen in the great cities in our own day as they did in the days of Charles I.

The police, however, fell into the habit of disregarding these maxims. Magistrates fell into the habit of overlooking actions by the police who violated them; and the police, unrestrained either by their own superiors or by the criminal courts, developed theories of their own police power which never had a basis in American or English law. Abuses of the fundamental rights of American citizens became almost a custom.

In New York these abuses became most numerous and most flagrant under the last two police administrations, when the police department was under the control of two of the most faithful, diligent, efficient, and honest Commissioners the city has had. Under earlier administrations, when the department was loosely and inefficiently managed, when an active campaign against lawbreakers was not being carried on, when corrupt protection of evil-doers was a prolific source of bribe money, offenses by the police against the law were naturally less frequent than when an aggressive Police Commissioner was insisting upon the punishment of criminals and the suppression of illegal resorts. The methods which the policeman had practiced under corrupt and inefficient police administrations, unrestrained by his superiors, were the methods used, but used more actively, under the command of Commissioners who were zealous to stamp out crime. The same methods of suppressing disorderly places which the police had used on those who did not pay bribes for protection, they used under the new régime upon places which, rightly or wrongly, they suspected of harboring crime. The very efficiency of the new police administrations under McAdoo and Bingham only brought still further into relief the methods of the police and the conflict between them and the old maxims underlying the general liberty of the citizen.

Some examples of these methods as applied will serve as illustrations:

A man named Hale kept a saloon and restaurant at Washington Street opposite Washington Market in New York City. His saloon was on the ground floor and his eating-room on the second floor. Butchers who had stalls in Washington Market leased a room in the upper floor as a clothes room and dressing-room. Beginning in February, 1904, a police captain named Burns kept, for approximately four months, police officers most of the time in Hale's place from midday until it closed at night. They sat about, stood in the dining-room, interfered with people going in, sometimes forbade them to go to the dining-room floor and sometimes forbade and prevented the butchers from entering their clothes room. The butchers gave up their room, and Hale's business fell off. He asked the officers to leave, and they refused. He went with his counsel to the captain of the precinct and asked him to withdraw his men, and the captain refused and said he would keep them there until he drove Hale out of his precinct. The officers had no warrant or other legal process; they had no legal right on the premises. They suspected that a room on the upper floor was being used for gambling. Hale had nothing to do with this room or the incorporated social club which rented it. The police had no evidence of any gaming in this club room or in Hale's room, and had not arrested anybody in or about the place, or made a complaint before a magistrate against any such person.

In June, 1904, Hale applied to Judge Gaynor for an injunction restraining the police from a continual trespass on his property. He got it.

"It is irksome," said the Judge, "to have to repeatedly decide that the police have no right to invade any one's house or place of business without a warrant from a magistrate, except in pursuit of a fleeing criminal or on a call for help against violence and the like. The safeguards against such invasions and against unlawful arrests, which are found in our constitutions in this country,

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are the warp and woof of our system of government and of free government everywhere. They mark the distinction between free government and despotism. When they are set at naught, free government is gone and government by force or despotism takes its place. If the police are suffered to invade and raid houses and business places without warrants, they will inevitably use that as a means of extorting money. Experience shows this to be a thing not open to doubt."

In another case, acting without a warrant and without ever having made a complaint to a magistrate, the police, under order from their chief, broke into a club-house occupied by a social club, using axes and crowbars. They smashed the interior doors and partitions, broke the chairs, benches, tables, sideboards, electric lights, and all the fixtures and furniture of the place. The members of the club were seized, knocked about and put out of the house, and warned never to come back. These things were all done without a warrant, and, more than that, without a particle of evidence of any criminal offense whatsoever by any one in the house. Similar trespasses were repeated thereafter. When the house had been repaired, the police chief would send a squad of police to smash it again. The president of the club applied to Judge Gaynor for an injunction, which was issued. The plea of the police in opposing this application for an injunction was that the house was suspected of being a gambling-house. Judge Gaynor said:

The way the law prescribes is that these police officials should, through their secret service or otherwise, get evidence that the managers or frequenters of this house bet on horse races or play billiards for money, or whatever the suspected offense is, and that they then go to a magistrate and get a warrant and arrest them, and cause them to be held and convicted and imprisoned. That is the wholesome and effective way of the law, and the police ruler who thinks himself so powerful that he can put aside the law and smash into houses is more dangerous to society, a greater menace to the continuance of our free government, than bettors on horse races; for such abuses grow fast once they get under way, and extend all over the land.

If the question be asked, "What are the police rulers to do if they cannot get any evidence?" the answer of the law is simple and emphatic: "Do nothing." Even a suspected murderer has to be let alone if you cannot get evidence against him, let alone people who only commit the smaller offense of betting with each other on a horse race and writing the bet on a card.

In another case, a hotel on the Bowery was picketed by police, who warned every one who entered it that it was a disorderly resort, that it was likely to be raided at any minute and those found there taken to jail. They entered the saloon attached to the hotel and made similar threats and warnings. They entered it at late hours of the night and compelled inmates to get up and give their names and addresses. No warrant had issued, no charge had been made to any magistrate, no attempt was being made to close an illegal resort, by orderly process and on due evidence. The police had tried and condemned it, and were using these old-time police methods to put it out of business. The proprietor sought an injunction, and Judge Gaynor granted it, restraining the police from lawless trespasses on the premises.

This illegal method of closing up this hotel being stopped, the police were compelled to fall back on the law. The necessary evidence was obtained, the proprietor arrested on a warrant and duly convicted in a criminal court and punished.

The advocates of a practical rather than a legal police administration made much of this case in the campaign. "Here is a man," they said, "running a disorderly resort. The police were prevented from closing it up by Judge Gaynor, who protected the place by a judicial decision restraining the police." The subsequent conviction of the proprietor was urged as a triumphant clincher to prove that the police had been right and Judge Gaynor wrong, and that as a Judge he had befriended the criminal classes.

The fact that this argument was made and similar arguments based upon other injunctions of the same kind issued by Judge Gaynor is interesting. It could have been made only on the assumption that the people in New York City had so completely abandoned their interest in the constitutional safeguards of personal liberty that they would be willing to condemn a Judge who had reaffirmed and sustained them; that the people would rather support the police in overriding these safeguards, provided it were demonstrated to them that the particular resort against which the lawless efforts of the police were directed was in fact a disorderly

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one; in other words, that the lawlessness of police methods was unimportant, provided the police were after the right man.

We are disgusted with legal technicalities and red tape. We have tired of the law's delay. This feeling is at the basis of the sympathy which in many quarters exists for this "practical" theory of police administration. But can a course of police conduct which would be outrageous as a method if practiced on the innocent and law-abiding be any less so if practiced upon the lawbreaker? Is the liberty of innocent and honest people fully protected if we permit the police to determine who are the innocent, and to act as judge, jury, and executioner upon those whom they find to be wrong-doers? There are some legal principles intended as restraints upon official conduct which are not technicalities and cannot be considered as such by the people, if we have not resolved upon a very radical change in the character of our government. If we are to make that change, we should at least make it deliberately, with our eyes open, and not have it made for us, without our knowledge or consent, by our police employees.

Another phase of this subject which is likely to come to the front in the next four years is the matter of freedom of speech. With perfectly good intentions, the past few police administrations have been busily engaged in knocking off the safety-valve of our governmental machine. Readers of H. G. Wells's book "The Future in America" have probably felt somewhat shocked and bewildered at his chapter on American intolerance. But a great part of that intolerance is not a genuine American quality. It results from what we passively submit to in our police.

Take a conspicuous example, the treatment of that entirely unimportant person who figures so much in the press—Emma Goldman. She hires a hall to make an address on Ibsen. Whether she knows anything about Ibsen it is impossible to state, because the police refused to permit her to use the hall, forbade the doors to be opened, and placed a cordon of police about the building to drive away would-be listeners. It was not a case of arresting an Anarchist for preaching criminal Anarchy. It was the complete suppression of freedom of speech on any subject by a person who was known to entertain Anarchistic notions. The suppression of Emma Goldman doubtless would be a good thing if it did not cost too much. It costs too much if it be done by the suppression of our common freedom of speech. If the right of peaceable assembly and of freedom of speech can be denied to her and her sympathizers because police clairvoyance can determine *in advance* what she will say, it can be denied to the minister or the lecturer.

Take the bomb-throwing incident in Union Square. A permit had been issued for a meeting of the unemployed. The meeting having been arranged for, the permit was withdrawn because Socialists were to address the crowd. The police used their clubs in driving out of the park the people who had assembled. The bomb was thrown while the meeting was being thus dispersed. The man who threw it said: "Yes, I made the bomb, and I came to the park to kill the police with it. The police are no good. They drove us out of the park and I hate them."

The great body of the American people abhor Anarchy, and have little sympathy with what they understand by the word "Socialism." They are ready to give hearty assent to laws which make the preaching of the Anarchy of bombs and assassinations a criminal offense, but they have never given their assent to police suppression of free speech. To punish the abuse of free speech is one thing; to prevent it in advance, to forbid Socialistic gatherings in public places, to close up halls in which it is thought by the police that Anarchy may be given utterance, is quite another.

The worst of it all is that such actions of the police tend to exaggerate absurdly the importance both of the people who are suppressed and the opinions which they are prevented from uttering. A century and a half ago, similar activities in England gave prominence to a dissolute fellow named Wilkes. The freedom of the press was involved in the suppression of the famous forty-ninth number of the "North Briton," and the English

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people were obliged to take an interest in that publication and in the fate of its publisher.

Judge Gaynor has expressed himself frequently in opposition to this police policy of the suppression of free speech. In an address delivered before the Harvard Political Club some years ago he said:

> It is the worst policy in the world to drive people to secret meetings and plottings. Let them speak in the open and you will have no secret plottings, throwing of bombs, and assassinations. It is hard to make the little "pin-head" in authority understand this in this free country, where of all the world it should be understood. He prefers the Russian method of force.

As I write, thousands of girls and young women, formerly employed in the shirt-waist business, are on strike to try to get living wages for their work. The law says that they have the right to use peaceable persuasion to induce others not to take their places. The Penal Code and all the decisions of the New York courts are on the side of "picketing," if it is not accompanied by force. Yet the daily papers are full of police outrages upon that right. The police authorities have decided that peaceable persuasion, one of the expressions of the common right of free speech, cannot be used by these poor women in their struggle for living wages. The successor of Mayor McClellan is not likely to be so indifferent to similar conduct of the police on such occasions.

One of the decisions of Judge Gaynor which deserves mention under the subject of this article is the Hochstim case. Hochstim had been convicted and sentenced in a New York City criminal court, and an application was made to Judge Gaynor for a certificate of reasonable doubt, which he granted, thereby preventing Hochstim's incarceration in jail pending an appeal. No case could be much more important than this Hochstim case. It directly involved the freedom of elections. Hochstim had been arrested and convicted "for interfering with an election officer in the discharge of his duties." He had taken part in a small riot in an election booth in the election of 1901. It arose as follows: A duly registered voter had presented himself at the polls, and when in the act of casting his ballot was arrested, for the purpose of preventing him from voting. An election deputy had assumed to decide, on his own responsibility, without recourse to any court or magistrate, without any evidence that the crime of false registering had been committed, that this man was not entitled to vote. Judge Gaynor decided that the election officers never had any such power and that their interference with elections by such arrests was mere lawlessness, and justified resistance. His decision was indorsed and sustained by a higher court to which Hochstim's appeal was taken and which reversed his conviction. The effect upon freedom of election which a contrary decision would have had must be apparent even to the most thoughtless, and yet the Hochstim case was used as a campaign argument against Judge Gaynor; declarations being frequently made in the public press that he had protected from punishment a notorious Lexow character, an East Side politician convicted of crime.

It is true that these various opinions of the Judge who is to be our next Mayor are necessarily incomplete as indications of the course which in his new office he will take in dealing with the difficult problems of police administration in America's greatest city. They are inconclusive because they are of necessity negative rather than positive. They deal with what the police shall not do, rather than what they shall do in performing their most important civic functions. The police themselves, not only the lower in rank but the chiefs and commissioners, are accustomed to assert that it is impossible to stamp out vice and to detect and punish crime by following the ancient machinery of the criminal law and by observing the limitations which it prescribes for the protection of the rights of the innocent; that an aggressive campaign against the forces of evil cannot be waged within the confines of the Constitution. We shall see.

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DEATHLESS DEATH

(IN MEMORY OF RICHARD WATSON GILDER)

BY FLORENCE EARLE COATES

We who have seen the seed fall without sound
Into the lifeless ground,
Through wintry days are tempted to forget
How Spring will come with the first violet
In her dark hair,
Fresh and more fair
Than we remembered her, a glad surprise
In the veiled azure of her shadowy eyes.

Fear doth the heart deceive,
And still we grieve
Where we should lift the voice
In triumph, and rejoice
Amid our sorrow,
Because of what the past
Has given that is beauteous and shall last—
A heritage of blessing for the morrow.

Lo, in what perfect trust
Nature confides her darlings to the dust!
The rose, the crocus, the narcissus sweet,
She lays to rest, undoubting, at her feet
Who from the meadows bright
Was snatched away to rule in the sad light
Of Hades, and to learn
Its lessons stern.
For Nature's faith is deep
That, waking from the dark and dreamless sleep,
Her flowers toward the sun shall wistful yearn,
And in the fragrant breast of Proserpine return.

Ah, lover true of men,
Forgive—forgive us, then,
If, choked by tears, we falter in thy praise,
Remembering that we no more again
Shall hold glad converse with thy spirit brave,
Nor from thy lips hear words that lift and save,
Through all the lengthening number of our days!

By the great Silence thou art set apart
From all the restless travail of the heart
That beats in us
So passionate and strong—
Art passed beyond the evening angelus
And Memnon's morning song.

Man's life on earth—how brief!
Yet we, with Nature, hold the high belief,
E'en when our hearts are breaking,
That death is but the vital way,
Darkness the shadow of the day,
And sleep the door to waking!

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And shall we still with tears
Pay tribute sad to one whose soul endears
Even the dark, dark river it hath crossed?
Shall we in grief forget
The sweetness and the glory of our debt,
And that no good, once given, can be lost?

Distant thy dwelling seems,
Poet and patriot! But, ah, thy dreams
Are living as the flame of sacrifice!
Therefore love's roses now
We lay amidst the laurel on thy brow,
Grateful that souls like thine our earth emparadise.

A LOOK AT PANAMA

BY ALBERT EDWARDS

IT was good to land at Colon and see some workaday Americans. For a week I had been aboard an English ship, and, after the formal white ducks of the officers and the careful dressing of the English tourists, it was a joy to see men in flannel shirts and khaki, mud up to their knees, grime on their hands, sweat on their brow—men who were working like galley slaves in a poisonous climate, digging the biggest ditch on earth, and proud of it.

Colon is a nondescript sort of place; there are docks and railway yards and Chinese lotteries and Spanish restaurants and an "Astor House" which reminds one much more of Roaring Camp than of Broadway. There are many mining towns near the Mexican border which one might well mistake for Colon.

One of the Panama Railway steamers had come in during the morning, bringing mail and newspapers from home and a number of the Canal employees back from their leave in "the States." One of them attracted my attention; he was standing on the railway platform among a group in khaki who had come down from their work to welcome him back. They were asking him endless questions about "God's country" and making much sport of his "store clothes," and especially of some Nile-green socks. He pulled up his trousers and strutted about pretending to be vastly proud of them, but it was easy to see that he was keen to be back in his work clothes. Their "joshing" was a bit rough, but good-natured. For they are a free-and-easy lot, these modern frontiersmen of ours, undismayed by the odds against them.

The Panama Railway is our first experiment in Government ownership; and, as it is always enjoyable to see something accomplished which people have for a long time thought impossible, it was a pleasure to see what a thoroughly good railway it is.

An old college friend met me at the dock, and, after we had looked over the railway, took me out to his quarters. The boundary of the Canal Zone runs through the city of Colon, and the American side of the line is called Christobel. Many of the houses were built by the old French company, but the camp has grown, since the American occupation, to a population of 35,000. All those who work for the Canal Commission are given quarters free of charge; and they are very good quarters. Some of the bachelors have single rooms, sometimes two have a double room together. There are broad, shaded porches about all the American buildings, and every living-place is guarded with mosquito gauze. The quarters are allotted on a regular scale of so many square feet of floor space to every hun-

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dred dollars of salary. The employees are infinitely more comfortable than in any other construction camp I have ever seen. The furniture is ample: tables and Morris chairs and comfortable beds. Everything is wonderfully clean. There are abundant baths for every one, and of course the sanitary arrangements are perfect. The bachelor quarters would compare favorably with the ordinary college dormitory.

We did not have time to inspect any of the married men's quarters before our train left for Panama, but my friend tells me that they are even more pleasant than his. Two minutes out from Christobel the train jumps into the jungle. And this jungle is one of the things which defeated de Lesseps. The engineering problems which face us are practically the same as those which the French tackled; of course we have better machinery and more money. But one of our greatest advantages is W. C. Gorgas, chief sanitary officer of the Canal Zone. He is the army doctor who cleaned up Havana. He had a much harder job on the Isthmus. Even to the layman who knows no more than I of *anopheles* and *stegomyia*, the excessively heavy vegetation of the jungle looks threateningly sinister. It is Colonel Gorgas who has pulled its teeth. My friend tells me that there has not been a case of yellow fever on the Zone for three and a half years. And to-day there are only a quarter as many men in the hospital with the dreaded Chagres fever as there were in 1906. The health statistics of the Zone now compare favorably with those of any of our home cities.

There was a motley crowd on our train. In the second-class carriage there were merry West Indian negroes, sullen Spanish and light-hearted Italian laborers. I noticed especially a seat full of Martinique women—their gaudy, elaborate turbans would mark them anywhere. Close beside them were some East Indian coolies—men with Caucasian features and ebony skin. They all wear queer little embroidered caps; it is all that is left of their native costume. The faces of some of them are remarkably fine and intellectual. There was also a fair sprinkling of Chinese.

Most noticeable in my carriage was a group of Panamanian women, darker skinned than the women of Spain, but still keeping many characteristics of the mother land. My friend called them "spiggoty" women, and then told me that "spiggoty" is Zone slang for anything native, because in the early days the Panamanians, when addressed, used to reply, "No spiggoty Inglis."

Most of the first-class passengers, however, were Americans. Some were evidently of the Administration—their soft hands and clean clothes marked them. And I imagine that they are rather looked down upon by the "men on the line," the civil and mechanical engineers, who swagger about, plainly proud of the marks of toil. And there are women too—clean-cut American girls, just such as you would see on a train leading into a co-education college town.

"Gatun!" the conductor calls.

Gatun and Culebra are, I suppose, the two Isthmian names most known in the States. My friend pointed out to me the toes of the great dam. But it isn't a dam they are building; it is a mountain range. It is to be a quarter of a mile wide and a mile and a half long, high enough to hold the water up to a level of eighty-five feet above the sea. They have barely commenced work on this great wall, but it already presents a suggestion of its future massiveness which makes the newspaper sensations about its inadequacy a joke. How could a wall fifteen times as wide as it is high fall over? There are some chronic critics who say that the water will leak through it. But this dam is only a part of the wall of hills which will hold in the great lake. And why this specially prepared hill should be more porous than the others, which nature has thrown together haphazard, is more than I can see.

From Gatun the train goes through territory which is to be the lake. For twenty-three miles the ships will cross this artificial lake to Culebra Cut. Never before has man dreamed of taking such liberties with nature, of making such sweeping changes in the geographical formation of a country. Here are we Americans dropping down into the heart of a jungle of unequaled denseness, building a young

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mountain, balancing a lake of 150 odd square miles on the top of the continental divide, gouging out a cañon 10 miles long, 300 feet wide, and in some places over 250 feet deep. Sit back and think about that for a minute and then be proud that you are an American.

All the technical things my friend told me about millions of yards of subaqueous excavation, and so forth, meant nothing to me. But looking out of the car window mile after mile as we passed through what is soon to be the bed of this artificial lake, I caught some faint idea of the magnitude of the project.

"Look," my friend cried suddenly. "See that machine—it looks like a steam crane—it is a track-shifter. Invented by one of our engineers. You see, on the dumps, where we throw out the spoil from the cuts, we have to keep shifting the tracks to keep the top of the dump level. Well, it took an awful lot of time to do it by hand. So we developed that machine. It just takes hold of a section of track, rails and ties and all, hoists it up out of its ballast, and swings it over to where we want it. Does in an hour what a gang of twenty men could not do in a week. They're not used much anywhere else in the world. You see, there isn't any other place where they have to shift track on so large a scale."

They seem vastly proud of this track-shifter down here.

"And this is Gorgona," he said, a minute later. "Those shops over there are the largest of their kind in the world—repairing machinery. We can mend anything in there from a locomotive to a watch-spring."

One gets tired of this "largest in the world" talk. But it is only as you accustom yourself to the idea that each integral part of the work is of unequaled proportions that you begin to sense the grandeur of the whole undertaking. The largest dam, the highest locks, the greatest artificial lake, the deepest cut, the biggest machine shops, the heaviest consumption of dynamite, the most wonderful sanitary system—all these and others which I forget are unique—the top point of human achievement. After an hour of this talk I gained a new respect for Uncle Sam—a new respect for his children who have conceived and are executing this gigantic thing.

The whistle blew in the shops at Gorgona as we pulled into the station, and there was a rush for places in the train. Four men just from their work tumbled into the double seat before me. Fine fellows they were, despite the yellow malarial tinge of their skin and the grimy sweat which ran in little rivulets down their sooty faces. The hands with which they brushed off the beads of perspiration were black and greasy from their work. They wore no coats, and their shirts, wringing wet, stuck close to their backs, and the play of their muscles as they relaxed after the day's strain showed as plainly as if they had been nude. I tried to follow their conversation—which was very earnest—but could not, as it was all about some new four-cylinder engine with a mysterious kind of alternate action.

A few miles farther down the line we came to Empire. The scene on the platform recalled a suburban station on some line out of New York, for, except for a few Chinamen and Spaniards, the crowd was just the same as that which comes down to meet the commuters on an evening train after the work-day is over. One group caught my attention. A young mother of thirty, in the crispest, whitest lawn, was holding a baby. Beside her stood a sister, like a Gibson summer girl. The younger woman held by the hand a little lad of four with Jeanne d'Arc hair, bare legs, a white Russian tunic, and a black belt. Fresh from the bath-tub they looked, all four of them. And while I was admiring the picture they made and wondering at the strange chance which had brought such a New Jersey group down here under the equator the mother's face lighted up and she waved her hand. Two of those grimy men who had sat before me swung off the steps of the car and came towards them. One was the father. Holding his hands stiffly behind him so as not to soil anything, he bent forward and kissed his wife. Then, one after the other, the children were held up to him for a kiss. The other man, somewhat younger, took off his battered hat with a gallant sweep to the sister. He greeted her as formally as if it had been

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Easter Sunday on Fifth Avenue. Neither of them seemed to realize that he looked like a coal miner. They loitered behind as they went up the hill to the quarters. He walked as close to her white skirt as he dared, and had something very serious to say to her, for they laughed just as Americans do when they are talking very earnestly.

It is between Gorgona and Empire that you get your first look into Culebra Cut. It is as busy a place as an anthill. It seems to be alive with machinery; there are, of course, men in the cut too, but they are insignificant, lost among the mechanical monsters which are jerking work-trains about the maze of tracks, which are boring holes for the blasting, which are tearing at the spine of the continent—steam shovels which fill a car in five moves, steam shovels as accurate and delicate as a watch, as mighty— Well, I can think of nothing sufficiently mighty to compare with these steel beasts which eat a thousand cubic yards a day out of the side of the hills.

But it is not till you get beyond the cut and, looking back, see the profile of the ditch against the sunset that you get the real impression—the memory which is to last. The scars on the side of the cut are red, like the rocks of our great Western deserts. The work has stopped, and the great black shovels are silhouetted against the red of the sky. Then there comes a moment, as your train winds round a curve, when the lowering sun falls directly into the notch of the cut and it is all illumined in an utterly unearthly glory.

The night falls rapidly in the tropics, and when, a few minutes later, we reached Panama, it was too dark to see anything of the quaint old city, so we drove at once to Ancon, the American suburb, and put up at the Tivoli, the Government hotel. It was a lucky chance which brought me there on that day, as I saw a phase of life which I might otherwise have missed. A couple of dozen Congressmen had come down on an unofficial visit to the Zone, so that when they got back to Washington and anything was said about the Canal they could jump up and contradict it, and say, "I know, because I've been there." It is safe to say that the men on the Isthmus are more afraid of Congressmen than they are of yellow fever mosquitoes. The Canal Commission has its plans all worked out; if Congress will grant them the money—and leave them alone—the Canal will be built on schedule time. Yet not only their personal reputations, but, what is much more important, the success of the work, is utterly at the mercy of Congress. Several bills are presented in each session which, if passed, would seriously cripple the work. And these bills must be acted upon by men who know little or nothing of engineering. When the men down here have nightmares, it is not of hobgoblins they dream, but of Congressmen. I certainly hope that the average of intelligence in the House is higher than among the Representatives I saw at the Tivoli. At the table next to mine, when the waiter put some ice in his glass, I heard a Congressman ask how much of the ice on the Isthmus was artificial. I could see the face of the man who was doing the honors. He deserves a medal for the serious way in which he explained that in the tropics all ice is artificial. I overheard some others discussing sanitation.

"You can never make me believe," said one, "that a mosquito bite can give a man yellow fever."

"I don't know," another replied. "But even if it is true, four million dollars is an awful lot to spend killing them."

My friend told me that one of the Congressmen, when he was shown the site of the locks at Gatun, became wildly indignant, and said he thought that Congress had decided on a sea-level canal.

And these men will go home and make speeches, out of their copious ignorance, on the floor of the House, and, what is worse, among their constituents, where there is some chance of their being believed. And after every misstatement they will say, impressively, "I know, because I've been there."

After the dinner I found that a ball was to be given in honor of the Congressmen. The day's work was over, and even the presence of the critics from home could not keep the employees from having a good time. The parlor of the Tivoli makes as fine a ball-room as any I know. And a prettier, daintier crowd of

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women I have never seen. Hot water and grit soap had been busy on the men, and the scene, except that some of the men were in white, looked like a college dance. I was especially pleased to see the young couple I had noticed down the line. I never would have recognized the man if I had not seen him dancing with the girl. Cleaned and polished, with an orchid on the lapel of his dinner-coat, he looked about as different from the grimy young engineer of five o'clock as could well be imagined.

It was rather a shock, when I went to my room and looked out of the window, to find the moon rising out of the Pacific Ocean. There are not many places on the American continent where this phenomenon is to be seen. Of course, by looking at the map, you can see that the Isthmus is like a letter S, with Colon, the Atlantic terminus of the Canal, west of Panama on the Pacific; but somehow it does not reconcile me to the confusion of directions. It will take some time before I can accustom myself to looking eastward to see the Western Ocean.

I turned in with an unusual sense of satisfaction. The two big impressions this first day on the Isthmus had given me were: First, the sublime confidence of the men—the absence of any doubt as to eventual achievement. "Of course we'll dig the ditch." And, second, the *esprit de corps* implied in the "we" of that expression. I did not hear any one talk of what he as an individual was doing. Nor did I hear any one tell of what "they" were doing—it is always "we." An ink-stained clerk from the Department of Civil Administration, who never had any more intimate connection with a steam shovel than I have, said to me boastfully: "Well, we knocked the top off the record for dry excavation again this month." It is what Maeterlinck calls "the Spirit of the Hive."

For a people with such undaunted confidence and this trick of pulling together there is no limit to achievement.

GENERAL KUROPATKIN'S HISTORY OF THE RUSSO-JAPANESE WAR[1]

BY GEORGE KENNAN

WHEN General Kuropatkin was relieved from duty in the field at the end of the Russo-Japanese War, he became at once the target for innumerable arrows of criticism, accusation, and censure. The people and the press united in assailing him as the person primarily responsible for Russia's defeat, and said to him in substance:

You, as the Emperor's counselor, as Minister of War, and as Commander-in-Chief of the Manchurian army, are most to blame for the disgrace and humiliation that the nation has suffered. Just prior to the outbreak of hostilities you made an official visit to Tokyo, where you had an opportunity not only to discover the great military strength of Japan, but to see something of her preparations for war. Why did you not advise the Czar to postpone or avoid a conflict with so formidable and dangerous an antagonist? Then, after war had been declared and you had taken the field, why did you not use and direct Russia's great strength in such a way as to defeat the Japanese in at least a single engagement? One solitary victory would have helped to save the country's self-respect, but you were beaten in every battle. Your apologists excuse this by saying that our army, as compared with that of the Japanese, was inefficient and weak; but this, if true, must also have been your fault, because you were at the head of the Ministry of War for a period of five years before you became Commander-in-Chief in the Far East, and, if the army was not in satisfactory condition, it was your duty to improve and strengthen it. In every official capacity you failed to justify the confidence reposed in you, and you are therefore largely if not mainly responsible for the bitterest humiliation that Russia has had to endure in all the thousand years of her history.

Irritated by the unfairness of these attacks, and anxious, as well, to point out

[1] The Russian Army and the Japanese War. By A. N. Kuropatkin. Translated by Capt. A. B. Lindsay. E. P. Dutton & Co., New York. 2 vols. $7.50.

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the real causes of Russia's military weakness, so that they might be removed before the breaking out of another war, General Kuropatkin immediately began the preparation of a detailed history of the Manchurian campaign; and in a little more than a year, with the assistance of his staff officers, he completed a work which made four large volumes and comprised about 600,000 words. To the first three volumes, which were largely technical in character, the Czar and his Ministers made no objection; but when the author submitted to them the manuscript of the fourth volume, which covered the foreign policy of the Government, the causes of the war, and the reasons for Russia's defeat, they promptly condemned the whole work as "injudicious" and "inopportune," and ordered the immediate suppression of the three volumes that had been printed as well as of the volume that existed only in manuscript. By this action the author was virtually gagged, while his critics and enemies were allowed to assail and denounce him without censorial check or restriction.

Such a state of affairs, however, could not last long, because General Kuropatkin still had many devoted friends, and some of them determined to have the suppressed work published abroad. In order to do this without throwing any of the responsibility for it upon the author, they are said to have committed a friendly burglary by entering the General's house at night and carrying the condemned history away. This may or may not be true; but certain it is that the friendly conspirators secured the manuscript of the fourth volume in some way and sent it to London. One-half of it went out of Russia under the skirt of a lady's dress, while the other half was exported by a means of conveyance which combined concealment with security, but which it is not expedient to describe. When it reached its destination, the persons to whom it was consigned immediately took out a policy upon it at Lloyd's, insuring it, for a large sum, against fire, burglary, theft, and "Russian accidents" of all kinds. Such, in brief, is the story of the manuscript which has now been given to the American public under the title "The Russian Army and the Japanese War."

One need hardly do more than glance through the work in order to find obvious and abundant reasons for the attempt of the Czar and his Ministers to suppress it. Take, for example, the account given in Chapter VI of the events that led up to the war. No one, I think, can read the narrative and the accompanying documents without becoming convinced that the rupture with Japan was attributable to the Czar, the Grand Dukes, and a few high-placed courtiers in St. Petersburg, who had invested several million rubles in schemes for the exploitation of Manchuria and Korea; who feared that they might lose their money if Russia kept her promise to withdraw from Chinese and Korean territory; and who foolishly believed that Japan, at the last moment, would recede from her diplomatic position rather than fight. General Kuropatkin proves conclusively, by quotations from his letters and reports, that he strongly opposed an aggressive policy in the Far East, and even urged the Czar to give up Port Arthur and Dalny, withdraw his troops from Chinese and Korean territory, and abandon the "Manchurian adventure" altogether. But the Czar would not do this, and when the "adventure" ended in a great national disaster, he was not willing to have it shown that he had supported the speculative schemes of the promoter Bezobrazoff, and had disregarded the advice and warnings of such sane and far-sighted Ministers as Kuropatkin and Lamsdorff.

One of the interesting parts of General Kuropatkin's book, in this era of peace societies and constantly increasing armaments, is the chapter devoted to Russia's military problems, past and future, and to the wars in which she has been engaged since the beginning of the eighteenth century. The rulers and Prime Ministers of the great European Powers—Russia, Germany, Great Britain, Austria, and France—declare that their gigantic military establishments have not been created and are not maintained with a view to offensive action against other nations, but are intended solely for purposes of self-defense. What, however, has been the proportion of defensive wars to aggressive wars in the history of Russia? From officially compiled data, General Kuro-

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patkin shows that in the course of the past two centuries Russia has had peace for seventy-two years and war for one hundred and twenty-eight years. Exclusive of civil conflicts, the suppression of revolts, etc., she has waged twenty-two aggressive wars, lasting in the aggregate one hundred and one years, and only four defensive wars, lasting altogether four and a half years. In her one hundred and twenty-eight years of war, Kuropatkin says, she put into the field "some 10,000,000 men, of whom about one-third were lost to the nation, nearly 1,000,000 being killed and wounded. In our efforts to reach the Black Sea we lost 750,000 out of 3,200,000 put into the field against Turkey, while the conflict with Sweden cost us 700,000 out of 1,800,000 men employed. This is sufficient to convey some idea of what sacrifices we must expect from our army in any attempt on our part to reach the shores of the Pacific and Indian Oceans during the present century."

General Kuropatkin does not think that Russia should try to acquire India, or to embarrass Great Britain in any part of Asia. Upon this subject he says:

> Absolutely convinced as I am that the possession of India would in twenty years' time be a misfortune and an insupportable burden for Russia, I consider it both natural and right that we should establish an *entente* with Great Britain, so that in case of any great rising in India we should be on the side of the British. The twentieth century must see a great conflict between the Christian and the other nationalities in Asia, and it is essential, for the welfare of humanity, that we should, in such case, be allied with the Christian Power against the pagan races.

With regard to the danger that Russia has to apprehend from outside foes Kuropatkin says, "If we confine our actions to self-defense, no enemy will be likely to attack us;" but he evidently does not expect that Russia, in the twentieth century, *will* confine herself to self-defense, because he further says:

> In the twentieth century we shall probably have to put into the field about the same number of men that we did in the eighteenth and again in the nineteenth, viz., 4,900,000, and we must be prepared to face a loss in killed and wounded of 2,000,000, because losses become greater as weapons are perfected. In proportion to the number of men engaged, our losses in the nineteenth century were double those of the eighteenth.

In the twentieth century, moreover, Russia must be prepared to fight on, regardless of losses, until her armies are completely victorious. All her recent wars—the Crimean, the Turkish, and the Japanese—were ended unnecessarily and prematurely, and were therefore more disastrous to the nation than they would have been if they had been fought through to a victorious finish. "Every war," Kuropatkin says, "brings in its train much unhappiness to both sides; but the loss of a campaign is, for a great nation, a supreme misfortune, and one overwhelming the machinery of government. Therefore, strive as it may against commencing hostilities, when once a country takes up arms it should continue to fight until it wins; otherwise it will lose the right to be considered a great nation, and will become a 'collection of mere ethnographic material' from which other nationalities may be strengthened."

It may be questioned, however, whether a nation strengthens itself by collecting foreign "ethnographic material," as Russia has done in Finland, Poland, and the Caucasus, and as Austria has more recently done in Bosnia and Herzegovina.

It appears incidentally in the fifth chapter of Kuropatkin's work that the proposal which the Czar made in August, 1898, to have an International Peace Conference assembled at The Hague, for the purpose of considering the possibility of limiting armaments, was based upon, or at least suggested, by Russia's financial difficulties and her inability at that time to keep up in the international race for military supremacy. Just before Kuropatkin became Minister of War, in 1898, his predecessor, General Vannofski, made up the financial estimates of the Ministry for the five-year period from 1898 to 1903. They called for 455,000,000 rubles ($227,500,000) to cover extraordinary expenditures, in addition to the immense sums regularly appropriated for the support of the military establishment from year to year. The Minister of Finance declared that he could not possibly provide such a sum as 455,000,000 rubles, but agreed, after a long discussion, to furnish 160,000,000 rubles. "When I became Minister of

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War, therefore," Kuropatkin says, "I received an inheritance of difficulties. We had nearly 300,000,000 rubles less than we really needed for important objects, and as a result of this deficiency we fell more and more behind our neighbors in military readiness, and had to suspend many enterprises for the strengthening of our position, both on the western frontier and in Asia. It was my profound conviction that the most important thing to be none was to strengthen our western frontier; but in accomplishing this alone we could use up all of the 160,000,000 rubles of extraordinary appropriation, and yet there were many other needs of almost equal urgency. *The Czar took the subject into consideration, and his high-minded suggestion for the limitation of armaments had a practical application in the plan adopted.*" [1]

The greater part of General Kuropatkin's book—one-third of the first volume and nearly all of the second—is devoted to an explanation of the reasons for Russia's defeat in Manchuria, and to suggestions for the improvement of her military service. Her defeat, Kuropatkin thinks, was mainly due to the strength, courage, patriotism, and ability of the Japanese, which were greatly underestimated in Russia; to the inadequacy of the Trans-Siberian Railway as a means of quickly concentrating the nation's strength in a field so remote as Manchuria; to the discontent and disaffection of the Russian people, who did not understand the objects of the war, and consequently did not approve it nor give it their support; to the activity of the Russian revolutionary party, which alarmed the Central Government and ultimately forced it to end the war prematurely; and, finally, to ignorance, error, jealousy, dissension, incapacity, lack of co-ordination, and many other causes of weakness which became apparent in the War Department, the General Staff, and the army when Russia's military system was "tried out" under the extraordinary strain of a conflict with a first-class power.

General Kuropatkin's description of the flight and disintegration of the Russian army after the battle of Mukden makes it reasonably certain that if the Japanese had been able to follow up their victory promptly, or even to assume the offensive again within a fortnight, they would have turned the Russian defeat into an almost irreparable disaster. Kuropatkin's force went to pieces so rapidly that on the 13th of March—three days after the battle—one hundred and fourteen battalions in the Second and Third Armies, which should have had, in the aggregate, a strength of about 100,000 men, could muster only 16,390. At this time, General Kuropatkin says, "no map of the neighboring country existed, and the little information we had of the enemy was chiefly remarkable for its absolute vagueness. There were no roads to the rear, no local depots for the supply of the army, and no fords over the Sungari River, which was a standing menace, as the usual spring floods were still ahead of us."

In such a situation, General Kuropatkin could hardly have saved his army if the Japanese had promptly renewed their attack; but Field-Marshal Oyama made no further advance, and in the next six months the Russians brought their strength up to 600,000 men—a force which is said to have exceeded that of the Japanese by at least 100,000. It then became Japan's best policy to make peace if possible.

General Kuropatkin does not hesitate to assume his full share of responsibility for the result of the war. In his report to the Czar on the battle of Mukden he admitted that he was "mainly responsible for the disaster;" and in his farewell address to the First Manchurian Army he said: "Before all others, I, your senior commander, am guilty, because I did not succeed in rectifying our many moral and material defects during the war, and in making the most of the undoubtedly strong points of our troops."

He does not admit, however, that the war ought to have been unsuccessful, nor does he think that it would have been unsuccessful if it had lasted another year; but, he says, "when the first campaign has been disastrous, and when famine, disease, paralysis of trade, and, above all, heavy losses, make themselves felt, a Russian monarch must have a

[1] The italics are mine.—G. K.

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character of iron to enable him to resist the clamor that is raised in favor of accepting defeat and making peace."

General Kuropatkin's work, as a whole, contains no vivid narration or picturesque description, and no material that can properly be called sensational. It is careful in statement and dispassionate in tone, and its interest and value consist in its presentation of new facts; its disclosure of Russia's aims and purposes, particularly in the Far East; its generous estimate and cordial appreciation of the Japanese; and its frank and unsparing revelation of the weaknesses, blunders, and shortcomings of the Russian Government and Russian military administration. In short, it is the view taken by a soldier and statesman of Russia's national and military problems, of her policy in the Far East, and of her defeat in Manchuria.

THE NEW BOOKS

"The Wrong and Peril of Woman Suffrage," by Dr. James M. Buckley, is journalism in book form. It is not and does not purport to be an exhaustive treatment of the subject, but it contains some facts of which the advocates of woman's suffrage generally keep their audiences in ignorance, probably because they think that "ignorance is bliss" and that it is "folly to be wise." They are such as these: The highest court in England has affirmed that woman's suffrage is not a legal right, and "that the exclusion of women from the suffrage was not on account of their intellectual inferiority, but from a desire to promote decorum; in this way it was rather a privilege and a homage paid to the sex;" the Supreme Court of the United States has decided that woman's suffrage is not a Constitutional right in the United States; woman's suffrage has been defeated in Oregon in three popular elections and by increasing majorities; it was defeated in Wyoming; after brief trial it was defeated in the Territory of Washington; it has been defeated in the States of Kansas, California, Oklahoma, and Iowa; it was tried in the early history of New Jersey for thirty-one years, and the result was that "the whole State was so disgusted that an act was passed restricting the suffrage to white male citizens twenty-one years of age;" over against the conviction of some notable women formerly opposed to but now in favor of woman's suffrage may be put the fact that John Bright, Herbert Spencer, Mr. Gladstone, Bishop Vincent, and others, at first advocates of woman's suffrage, became convinced on further study that their advocacy was a mistake, and reversed their opinion; while the oft-quoted approval of woman's suffrage by Mr. Lincoln, parenthetically inserted in a sentence, was made when he was twenty-seven years of age, and nothing he ever said either in public or private would lead to the belief that he held this opinion in later life. Dr. Buckley's articles are courteous and non-polemic in tone; their spirit is indicated by the dedication: "Dedicated to men and women who look before they leap." (Fleming H. Revell Company, New York. 75c.)

Every one who has ever floated down the Danube from Vienna to Budapest must have for some hours experienced a certain exasperation at finding nothing but low-lying banks on either side and, with the exception of Pressburg, rather uninteresting towns. But on approaching the hills and mountains of Hungary, what a welcome change! Then it is that one says, "The Danube surpasses the Rhine." To the lover of the Hungarian hills and the lover of perhaps the most beautiful city in Europe—Budapest—the sumptuous volume entitled "Hungary" should come as an appropriate holiday gift. The superbly colored pictures in illustration of the text have been painted by Adrian and Marianne Stokes, and the text itself is the work of Adrian Stokes. To show the author's spontaneous style, lightness of touch, and aptness of description we quote the following: "The great river wound on among hills. Now and again we passed a village or a town—Gönyö, Komárom, Radvány; sometimes a little tower peeped up behind a dyke. In the warm light of afternoon we saw far away before us the colossal dome of the Basilica of Esztergom (Gran), and no building that I know, except St. Peter's at Rome, when seen from afar, gives such an impression of size. Even the mountains behind it looked insignificant and out of scale. Standing as it does high above the river, a palace and a line of houses along the base of the rocks on which it is built, it loses little on nearer approach. Esztergom is the seat of the Prince-Primate of Hungary, lord of many possessions and vast estates. On looking back when we had steamed away, the dome still loomed against the sky immense when other buildings had faded out of sight. We touched at Visegrád,

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a mountain where kings of the eleventh century resided, and now ruined walls around its barren peak alone mark the site of what was called an earthly paradise. Villas clustering round its foot looked gay among the trees. The glow of a golden sunset was behind the purple mountains before we left them to pass again through level plains, and, far away before us, low down on the horizon, a faint dun-colored haze told of the presence of a great city. The charm of that approach to Budapest by river late on a summer evening was indescribable. The Danube divided into two arms, which, reuniting, formed a long, low island. Again it divided close to the city, flowing round the beautiful Margaret Island—its noble trees, its pleasure grounds and pavilions. Young men in outriggers skipped silently by, or landed in the gloom of overhanging foliage. The sky, full of gentle gradations, was charged with the last warm light from the afterglow behind us—an all-pervading light which, softly falling, united all things in one great harmony." It would be a pity to part with the pictures, but, for the sake of intending travelers, we hope that the publishers will issue the text in a cheap edition and that the author will add what such a volume should have—a chapter on the economics and politics of Hungary. (The Macmillan Company, New York. $6.)

We hope that our readers have found their appetite for more information respecting the George Junior Republic stimulated by articles concerning this venture which have appeared in The Outlook. If so, they will find their interest increased and their curiosity satisfied by Mr. George's book, "The Junior Republic." To take, as Mr. William R. George has done, nearly two hundred boys and girls of the rougher sort from the streets of New York and put upon them the responsibility of enacting and enforcing their own laws argued a singular audacity of faith in the principles of self-government. The success of the enterprise is an extraordinary phenomenon. Whether it would have succeeded under any man not endowed with the peculiar combination of qualities which Mr. George possesses may be questioned; whether it will succeed in other States, under other leadership, remains to be determined. But if it should remain an absolutely isolated phenomenon, due to the idiosyncratic genius of Mr. George, it would still be a most interesting story, and a most valuable study in sociology. In both aspects we commend it to our readers. (D. Appleton & Co., New York. $1.50.)

While Commander Peary is receiving universal praise for his achievement of reaching the North Pole, and the claims of Dr. Cook to have accomplished the same feat are being severely scrutinized and harshly attacked, an important addition to the literature of polar exploration has appeared in the volumes recording the results of the Shackleton expedition in "Heart of the Antarctic." Lieutenant E. H. Shackleton, with a party of twelve, sailed from New Zealand to the south on January 1, 1908. The expedition made its headquarters on Ross Island, under the shadow of the volcanic mountains Erebus and Terror. After a winter of preparation and scientific observation, a party of four, with Lieutenant Shackleton at the head, set out for the South Pole on October 29. The party traveled with four sledges drawn by four Siberian ponies. The ponies perished one by one, three being killed at the end of their usefulness and one falling into a crevasse. On January 9 the party reached latitude 88° 23′, one hundred miles from the Pole, and were compelled by flagging strength and failing provisions to turn back. This Farthest South point was on a flat plateau ten thousand feet in elevation, and all the indications pointed toward the belief that the Pole itself is situated on this lofty plain. Some of the hardships of the return journey may be indicated by snatches from Lieutenant Shackleton's diary:

February 8.—Did 12 miles. We had fine weather after 10 A.M. Started from camp in blizzard. Adams and Marshall still dysentery; Wild and I all right. Feel starving for food. Talk of it all day. Anyhow, getting north, thank God. . . .

February 9.—. . . All thinking and talking of food.

February 10.—. . . All thinking and talking of food.

February 11.— . . All our thoughts are of food. We ought to reach the depot in two days. Now we are down to half a pannikin of meat and five biscuits a day. . . .

February 13.—. . . Reached the depot, with all our food finished, at 11.30 A.M. There we got Chinaman's [one of the ponies] liver, which we have had to-night. It tasted splendid. We looked around for any spare bits of meat, and while I was digging in the snow I came across some hard red stuff, Chinaman's blood frozen into a solid core. We dug it up, and found it a welcome addition to our food. It was like beef-tea, when boiled up. . . .

February 15.—My birthday to-day. I was given a present of a cigarette made out of pipe tobacco and some coarse paper we had with us. It was delicious. . . .

The Southern party reached headquarters safely on March 4, where the ship which had returned from the north was awaiting them. Meanwhile another party had gone to the northwest across Victoria Land and definitely located the South Magnetic Pole, in latitude 72° 25′ and longitude 155° 16′. Lieutenant Shackleton's narrative is written with the utmost simplicity and an entire lack of "fine writing," and loses nothing by the fact. The volumes contain also an account of the Magnetic Pole expedition by its leader, Professor T. W. E. David, and chapters of interesting and valuable scientific observations. They are fully and admirably illustrated. (J. B. Lippincott Company, Philadelphia. $10 per set.)

George Meredith once commented on Henry James's volume of impressions of his native land after a number of years abroad as follows: "James writes about America revisited, but what it really comes to is a tour of Henry James's inside. He tells you how

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he felt when he beheld this or that, and how such things impressed him, and at rare intervals he may take you to a little window and show you a bit of landscape." This is probably a better characterization of the later Jacobean manner than of the earlier, and thus it is not applicable to more than a few of the chapters of Mr. James's "Italian Hours," just published. In this volume are collected notes on Venice, Rome, Florence, Perugia, Siena, Milan, Ravenna, and other Italian towns—notes whose dates of setting down are mainly in the seventies of the last century. But an occasional paper of contemporary date gives an opportunity for a comparison of the objective and the subjective methods of travel observation. It also serves to set side by side the comparatively simple style which was Mr. James's thirty years ago and the elaborate involution of structure which to-day is the despair of many and the delight of a few. But whichever his method and whatever his style, Mr. James is in these papers always interesting, always picturesque, always full of suggestion. The fine Italian charm which glows in his descriptions is expressed in another medium in this volume by Mr. Joseph Pennell, probably the foremost illustrator of architectural subjects of his day. More than thirty drawings in color in Mr. Pennell's distinctive style reproduce Italian streets and gardens, palaces and churches, towers and gateways. In addition the book is a dignified and beautiful specimen of the art of book-making. (Houghton Mifflin Company, Boston. $7.50.)

The work of Mr. Pennell, this time in black and white, is the distinguishing feature of another volume—on "French Cathedrals." More than a score of cathedrals, churches, monasteries, and abbeys are depicted in pen and ink, pencil and wash drawings, and in etchings—among them Notre Dame de Paris, Rheims, Chartres, Bourges, Rouen, Beauvais, Mont St. Michel, and the less familiar Le Puy, Arles, and Albi. Mr. Pennell draws with a sure hand, directed by an imagination keen and quick to catch the spirit, the peculiar flavor, of a landscape, a building, a bit of architecture. He not only shows what the architect has accomplished, but suggests what he was aiming at, the idea which informed his work. The text which accompanies the pictures is by Mrs. Pennell, and presents gracefully bits of personal experience combined with historical and architectural information. (The Century Company, New York. $5.)

In a recently published volume Dr. Edward A. Steiner, who has often written for The Outlook, treats the broad subject of "Immigration" in relation to the phenomena of its ebb and flow. In the first part of his book he has "tried to show the influences of the returned immigrant upon his peasant home and his social and national life;" in the second part he interprets "the relation of various races to our institutions, their attitude toward them and their influence upon them." Dr. Steiner writes from the standpoint, not of the statistician, but of an observer and student of humanity. The immigrant is to him, not a unit in a vast problem, but an individual man or woman, boy or girl, with his own life problems to be solved either in the New World or in the Old with experience gained in the New. (Fleming H. Revell Company, New York. $1.50.)

In "Christianity at the Cross-Roads" George Tyrrell undertakes to point out a radical difference between Modernism in the Roman Catholic Church and Modernism in the Protestant Churches. We do not think that he succeeds. He does, however, make clear two radical differences in the conception of Christianity. The first difference is this: According to one view, Christian faith is regarded as a gift from heaven to be preserved through all the ages in substance and in form as it was originally imparted by Christ and his Apostles to the primitive Church; according to the other, it is regarded as a living seed from which forms of organization, forms of worship, and forms of thought have been developed. In this latter view Christianity is a living growth, constantly changing in its methods and in its forms, though remaining essentially the same in its undefinable spirit of life. The other difference is between those who believe that Jesus Christ taught an apocalyptic Christianity—taught, that is, his disciples to anticipate his speedy return to power and glory with his holy angels to establish by miraculous interference a celestial kingdom on the earth—and those who believe that Jesus Christ taught that the Kingdom of God would not immediately appear, but would grow up gradually like a plant from a seed in the ground, requiring for its completed development a length of time which he did not disclose to his disciples, and which he declared that he did not know himself. Both these conceptions regard Jesus as a Messiah, but the one as a Messiah developing, and the other as a Messiah of an instantaneous and completed kingdom. Dr. Tyrrell apparently holds the development conception of Christianity, but also apparently holds this apocalyptic conception. The two seem to us to be absolutely inconsistent, and, while we recognize the fact that there are some chapters in the Gospels which give color to the apocalyptic conception, we are sure that one main object of Christ's instructions was to teach his disciples that this Pharisaical conception was wrong and to substitute for it the other conception of a kingdom coming by gradual development. Dr. Tyrrell's book is of interest because it is an interpretation of the modern spirit in the Roman Catholic Church, and also because it is a posthumous publication, and thus is the last word to the world of a devoted, saintly, and able modern scholar in the Roman Catholic communion. (Longmans, Green & Co., New York. $1.50.)

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LETTERS TO THE OUTLOOK

SUPPOSE—AND THE ENGLISH BUDGET

That creature of vested interets, your American business man, apparently rejects the English Budget with all his vested soul. It is a "Socialistic blackleg," a criminal stiffening the money rate, upsetting trade. What England needs is a tariff wall, and that is all there is about it. Now I personally do not object to the American business man thinking this, provided that he knows what he is talking about. But that is just what he does not know; he is perfectly ignorant of the conditions out of which the Budget has grown. It is those conditions I want to put before him—a few of them, at least—in a few brief suppositions, and then ask him if revolution in England looks so criminal to him.

Suppose your country, America, had a deficit of $75,000,000. That is what England had last April. Again, suppose that in your country, America, one-tenth of the people owned nine-tenths of the land. That is the proportion in that little British Isle. Again, picture to yourself that a great deal of that land was entailed so that it could not be sold, and picture to yourself the rest of the land, the land that could be bought, held at such an exorbitant rate that gradually the small landowner, unable to work it longer at a profit, had been driven off it, so that you found yourself with a population of 40,000,000, 12,000,000 of whom were at starvation point. Can you not imagine that under such conditions even the vested heart of the American business man might, in sheer desperation, rush into some sort of an old age pension act? I can.

Still again, imagine in your American land this state of affairs—picture to yourself that the one-tenth of the people who own most of the land, and either cannot or will not sell it, picture them time and again charging you city ground rents on land on which they are paying only agricultural rates. That is the state of affairs in the Budget country.

Another state of affairs you may not quite take in is this: Suppose you wish to build a house; you cannot buy any land, so you hire some land for sixty years from a duke. You build your house on it, with your own hard-earned money. At the end of sixty years your land lease expires and the house and garden you have built with your hard-earned gains is no longer yours. When the lease expires, the house becomes the property of the duke. I do not seem to see the American citizen standing for that state of affairs very long. Picture again the case of Gorringe on American soil. Gorringe hires land of the Duke of Westminster, builds a great store and business on it, and when his lease falls in, the Duke allows him to renew it, but on condition that Gorringe give the Duke three-quarters of the profits. I do not see the American business man standing for that very long either!

Lastly, suppose, O vested American heart, that you had to see this precious country of yours losing the very soul of modern progress, economic efficiency—had to sit by and see your rivals stealing your markets, underselling you on every side, while you, with the incubus on your chest of an old landowning system made for the few, sat smothering in over-population, twenty men to one position, and no scope anywhere.

If you saw something like these conditions in America, would you not write a Budget that should redistribute, revalue, and reassess the lands of America, even if that redistribution and retaxation meant revolution?

I think that you would—with this difference: that, whereas the English Budget makers by their death duties allow about two hundred years for the big estates to be disintegrated, you would not allow two hundred years. You, if I read you aright, would want to do it in about twenty-five minutes.

A CRITIC.

[We do not believe that the American business man is quite so black as our correspondent would paint him, or that he is quite so opposed to the Lloyd-George Budget as our correspondent supposes. Nevertheless, our correspondent gives a very interesting picture of some of the conditions in Great Britain which have given rise to this momentous measure of taxation.—THE EDITORS.]

WHO MAY VOTE IN ENGLAND?

I have been much interested and assisted by the clear and concise account rendered by you of the political disturbance in England at this time. What qualifications are necessary to a resident of Great Britain to enable him to vote, and how is the vote taken?

New York City. G. W. T.

[There are three classes of voters in England for Parliamentary elections—property-owners, householders, and lodgers.

Property Owners: All males over twenty-one years of age who own real estate above a certain minimum are entitled to one vote in each constituency in which they possess such real estate. There are cases where a man has as many as forty different pieces of real estate in forty different constituencies, and consequently he possesses forty votes.

Householders: All males over twenty-one years who have paid the rent of a house, shop, or place of business from July to July can vote on the register which comes out after the first year of occupation has expired. For example, a man who becomes a tenant of a house or other place before July, 1908, is put upon the register of voters made out in July, 1909, and any one on this list is entitled to vote at any election during the year 1910.

Lodgers: Any male over twenty-one years

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of age who has occupied a room in a house for the twelve months ending in July can vote the next year. For instance, if he has occupied the room from July, 1908, to July, 1909, he may make application in July, 1909, to be put on the register of voters for 1910. He must make a declaration that he has occupied the room for the twelve months mentioned and has paid at least five shillings a week for the room unfurnished. He is then entitled to vote at any election during 1910 in the same way as a property-owner or a householder. The difference between the householder and the lodger is that the latter must make an application and a declaration each year, whereas the householder is put on the list automatically by the collector of taxes.

The vote is taken in a way somewhat similar to that in the United States. When Parliament is dissolved, writs for a general election are issued and sent to the election officers in all the constituencies. Each officer thereupon appoints a day to receive nominations for candidates. If there is only one candidate, the nomination is equivalent to election. If the seat is contested, the actual election is held a few days later. The date is fixed for each constituency by the election officer, within certain limits prescribed by law. The polling in the various constituencies, therefore, does not take place on one day, but extends over a period of about three weeks. Polling places are fixed upon (usually in the public schools), polling clerks are put in charge, and voters have to present themselves to record their vote at the polling place appointed for their district. When a voter arrives at the polling booth, a slip is given him bearing the names of the candidates in alphabetical order (usually there are two candidates, but sometimes more than two), and he puts a cross against the name of the man for whom he wishes to vote. He then puts this slip in the ballot-box, the ballot being secret. The poll opens at eight in the morning and closes at eight in the evening on the appointed day, and none of the boxes are opened until the poll has closed. Then all the boxes are taken to one place (usually the Town Hall), the votes counted, and the result declared.—THE EDITORS.]

DR. LEA AS A HISTORIAN

In The Outlook recently, under the caption "Five Eminent Americans," there is a statement that seems especially deserving of protest because it is found in your publication, which has the undoubted reputation of being serious in tone, honest in purpose, and reliable. Those who read the following, concerning the late Dr. Lea, "None ever justly impugned his good faith, his impartiality, his industry, or his inflexible determination to secure the exact truth," might perhaps infer that at times inaccuracies or questionable statements can be found even in The Outlook.

This praise of Dr. Lea is, to say the least, extreme; and to those who know the contents of Dr. Lea's famous works this whitewashing is quite unbearable, because all fair-minded students of ecclesiastical history are aware that the words "none," "ever," "justly," "impugned," "good faith," and "impartiality," in the quotation above, cannot be applied to Dr. Lea. A study of the articles cited beneath,[1] which are a few now at my reach, will dispel any doubt about any one ever having justly impugned Dr. Lea's good faith and impartiality in securing the exact truth. Moreover, these same articles will abundantly show that, as a historian, Dr. Lea was often illogical in his conclusions, frequently unscholarly in his references, as well as greatly biased in his judgments, not to speak of his inaccuracies and confusion in the use of manuscripts.

When a writer devotes his life and fortune to gathering material which concerns exclusively corruption, immorality, and scandal, choosing the blackest accusations against an institution, one is certainly justified in suspecting that the writer is not only partial in the choice of his subject matter, but partial also in his attitude. Again, had Dr. Lea been in good faith in his efforts to secure the exact truth, surely he would, in the subsequent editions of his works, have corrected the errors and false conclusions that had been pointed out in his first editions. The London "Athenæum," the "Church Quarterly," and the "Guardian," all non-Catholic publications, in their reviews of Dr. Lea's books, have made evident the partiality and bad faith of the late historian.

Though The Outlook has dubbed him "eminent," and placed his name with those who are so, I fear Dr. Lea's eminence is not as honorable as that of the others.

In view of all this, I regard the statement quoted from The Outlook as unjustifiable, and I trust you will do me the courtesy of publishing the references which I submit in rebuttal.

OWEN A. MCGRATH, C.S.P.
Church of St. Paul the Apostle,
Paulist Fathers, New York.

[The Outlook's estimate of Dr. Lea's work is that of the world of scholars. At home and abroad the most critical of learned bodies have welcomed him to membership.

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1 "Catholic University Bulletin," Vol. I, pp. 428 sq. Ibid., Vol. II, pp. 50-61.
"American Catholic Quarterly," Vol. XVI, pp. 131-158. Ibid., Vol. XIII, pp. 385-404.
"American Ecclesiastical Review," Vol. XXI, pp. 337-349.
The "Catholic World," March, 1897.
Boudinhon's article in "Revue d'histoire et de littérature religieuses," 1897.
Vacandard's "La pénitence publique dans l'église primitive," Paris, 1903.
Battifol's "Etudes d'histoire et de théologie positive," Paris, 1902.
G. Bonaccorsi's Italian version of Rauschen's "L'Eucaristia e la Penitenza ne' primi sei secole," pp. 199 sq. Firenza, 1809.
"Catholic Encyclopedia" (Appleton), Vol. III, pp. 481 sq.
London "Athenæum," September 19, 1896.

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By the craft of historians in America he has long been recognized as our foremost mediævalist; and no American historian has won from those of the Old World such esteem for his learning, for his critical insight, for his dispassionate fairness. When, a score of years ago, his history of the Inquisition drew to him the attention of the leading organ of German historical scholarship, the eminent mediævalist who reviewed the work found his critical method worthy of a German, and declared Mr. Lea not only the first to base a history of the Inquisition on the documents, but the first to write of it in a spirit tolerant even toward intolerance. Lord Acton, the most learned of English Catholics and himself a profound student of precisely this field of Church history, told the British public that "the work will assuredly be accepted as the most important contribution of the New World to the religious history of the Old." The Belgian Paul Fredericq, the foremost European investigator of the Inquisition's history, writing, a dozen years later, an introduction to the French translation of Mr. Lea's book, pointed out that, many as had since become the students of this subject, not one had found in the work of Mr. Lea ground for a valid stricture. Nor does this chorus of praise proceed alone from Protestants and liberal Catholics. Though Mr. Lea was frankly a foe of much in the teaching and the practice of the Church of Rome, he was an upright and a generous foe; and even his opponents have not failed to recognize this. The able French churchman, the Abbé Vacandard, who in 1906 published a volume on the Inquisition in express correction of Mr. Lea's, admits not only the learning and ability of the latter, but its regard for historical truth and "its incontestable marks of intellectual probity," and urges only that it is not final, and, though honest, not impartial. Even the German Ultramontane Baumgarten, who has furnished a general antidote to Mr. Lea's writings in his somewhat supercilious little volume (now translated also into English and widely circulated in America) on "The Works of Henry Charles Lea," feels constrained to allow him not only industry and a large though inadequate erudition, but "a much better knowledge of Catholic teaching and practice than is usual among non-Catholic historians."—THE EDITORS.]

NOT ELIA, BUT A DUKE

In the issue of The Outlook for October 30 was published an account from the pen of Mr. E. V. Lucas of "A Hitherto Unknown Statuette of Charles Lamb." Mr. Lucas now writes to The Outlook, inclosing copies of correspondence published in the London "Times" following the appearance of the same article in that journal. Mr. Lucas writes: "You will see that the authenticity of the statuette has been challenged, and very possibly Lord Ronald Sutherland Gower is right. But the statuette looked like Lamb to me and to many others. I am sorry for the confusion and for landing The Outlook with a goose instead of a swan."

The letters are in part as follows:

To the Editor of the "Times":"

Sir: The statuette described . . . by Mr. E. V. Lucas in the "Times" of to-day—a Parian or biscuit statuette at Brighton—appears to me to be that, not of "Elia," but of my grandfather, the first Duke of Sutherland.

The description of it tallies with a statuette of the first Duke, of which there are two—one here (Stafford House) and another at Dunrobin.

The "folio volumes piled beneath a florid chair" the same as in that supposed to be Charles Lamb, "the head tilted a little backwards and resting on his right hand," the "large Wellingtonian nose," are all in the statuette of my grandfather.

I do not think Lamb's nose was half so large as that of the Duke, whose nose out-Wellington'd Wellington's.

There is no artist's name on the statuette; it probably dates to the year 1830. Yours faithfully,

RONALD SUTHERLAND GOWER.

Stafford House, St. James's, S. W.

Sir,— . . . . . Happily . . . Lord Ronald Sutherland Gower states that the statuette is unnamed. Since this is so, and since the figure was to my eyes, when I first saw it, unmistakably Lamb, and is still so like certain of the portraits, and since it was confidently described as Lamb by the late Henry Willett, I hope, even at the risk of adding to the sculpture mysteries of the world and of your correspondence columns, that Lord Ronald Sutherland Gower will produce more evidence. The statuette being unnamed, both claims, I take it, rest rather upon tradition than absolute fact. But no doubt there would exist documentary proof that the first Duke of Sutherland sat for such a figure. . . .

Yours faithfully, E. V. LUCAS.

Kingston, Lewes, Nov. 12.

Sir,— . . . . . The first Duke of Sutherland sat probably to more painters and sculptors than any individual not a Sovereign—in his youth he was painted by Reynolds, by Romney, and by Cosway; and in his old age by Owen and Phillips, by whom there is a fine portrait of him in the National Gallery. I have known the statuette of him for over a half-century at Stafford House and at Dunrobin; and there has never been any idea that this was not my grandfather, than that his portraits by the painters and sculptors already alluded to were not of him.

Yours faithfully,

RONALD SUTHERLAND GOWER.

Hammerfield, Penshurst, Kent, Nov. 13.

Sir,— . . . . . Whether it is more honorable for a duke to be mistaken for an essayist or an essayist for a duke I leave to others to decide; but it is amusing to recall that a hundred years ago *plus* a few weeks Lamb anticipated for himself this very apotheosis. Writing to Manning on January 2, 1810, he says:—

"I have made a little scale supposing myself to receive the following various accessions of dignity from the King, who is the fountain of honor:—As at first, I, Mr. C. Lamb; 2, C. Lamb, Esq.; 3, Sir C. Lamb, Bart.; 4, Baron Lamb of Stamford; 5, Viscount Lamb; 6, Earl Lamb; 7, Marquis Lamb; 8, Duke Lamb. It would be like quibbling [he adds] to carry it on further. . . ."

I am, yours faithfully, E. V. LUCAS.

Kingston, Lewes, Nov. 20.

"PRO BONO PUBLICO"

The following statements appear in the editorial "Pro Bono Publico" in your issue for November 27 last: "Senators represent their respective States; Representatives

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their respective districts. Only the President represents the Nation."

Apparently what you meant by the latter statement was that the President, the representative of the Nation in the capacity of Chief Executive, is the only representative of the Nation chosen directly (owing to the failure of the Electoral plan) by the Nation. The Nation is represented by the President, Senate, and House of Representatives; *i.e.*, these delegates "stand in the place of" the people of the Nation, who act officially as a Nation only through them, each within his or its Constitutional limits. Another point it seems to me The Outlook has not made clear in recent issues; namely, that, although a Representative "stands in the place of" his constituency, his first duty is to consider the interests of the whole people. Historically, the pure democracy having been found impractical, the representative system was adopted by a certain number, selecting one to stand in their place in council and exercise their functions for them. In the pure democracy each member acted for the interests of the whole; in the representative system, in theory, though the practice (with some exceptions) has deteriorated, the representative is a legislator for the whole, and is bound to act for the interests of the whole. The following quotation is from Cooley's "Constitutional Law," third edition, page 42: "But aside from practical difficulties, the right to instruct representatives cannot on principle be sustained. Representatives are chosen in States and districts; but when chosen they are legislators for the whole country, and are bound in all they do to regard the interests of the whole. Their own immediate constituents have no more right than the rest of the Nation to address them through the press, to appeal to them by petition, or to have their local interests considered by them in legislation. They bring with them their knowledge of local wants, sentiments, and opinions, and may enlighten Congress respecting these, and thereby aid all the members to act wisely in matters which affect the whole country; but the moral obligation to consider the interest of one part of the country as much as that of another, and to legislate with a view to the best interests of all, is obligatory upon every member, and no one can be relieved from this obligation by instructions from any source. Moreover, the special fitness to legislate for all, which is acquired by the association, mutual information and comparison of views of a legislative body, cannot be had by the constituency, and the advantages would be lost to legislation if the right of instruction were recognized."

ROBERT S. WICKHAM.

Schuylervile, New York.

[No doubt Mr. Cooley presents the *ideal* position of a Representative. But in fact he does represent chiefly, and in many cases almost exclusively, his *district*, and it is very rarely the case that he has knowledge of the various conditions existing in various parts of the country to represent the Nation, even if his prejudices did not prevent him from doing so. It would be asking quite too much of human nature to expect that a Representative from Maine or Massachusetts could truly represent the interests of a cattle-raising district in the Far West or the sugar districts of Louisiana.—THE EDITORS.

WHY WAS IT DONE?

John M. Walsh, who was President of the defunct Chicago National Bank, and was convicted of misapplying the funds of his bank and sentenced to five years' penal servitude, has been lately refused a rehearing of his case by the United States Court of Appeals. While the Court would not admit him to bail, they have allowed him to live at home and engage in his usual occupations under the surveillance of a United States marshal. I question if the leniency is not due to the Chicago Banking Association, which assumed some of his obligations, and hope that, if he is given time, they may be reimbursed. I doubt if this favor would ordinarily be given, and to such of our people, who are a host, as follow the lead of such papers as Hearst's, etc., it is convincing proof that there is one law for the rich and another for the poor. Is it any wonder that there is such a lack of respect for law and the courts in this country?

LEWIS H. WILLIAMS.

Waukegan, Illinois.

[There should be no discrimination between rich and poor in the administration of law. The conviction of Mr. Walsh in Chicago and of Mr. Morse in New York, in spite of the great resources at their command for legally fighting their cases, is an encouraging indication that American juries understand the principle of equality before the law. If the court officials have permitted Mr. Walsh to work at his financial affairs at his office under police surveillance for his own private comfort, our correspondent's implied criticism seems reasonable; if, however, the Court has taken its action without regard to Mr. Walsh for the public good, we regard it as justifiable.—THE EDITORS.]

CREDIT WHERE DUE

In the editorial on the recent performance of Beethoven's D major Mass, contained in The Outlook for December 11, the writer fails to give credit to the Musical Union of Oberlin College in his enumeration of the previous American performances of this work. This society performed the mass entire in June, 1902.

Oberlin, Ohio. EDWARD DICKINSON.

[The Outlook is glad to print this communication from a member of the Department of History and Criticism of Music at Oberlin College.—THE EDITORS.]

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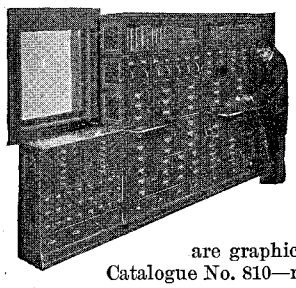

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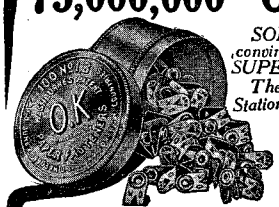

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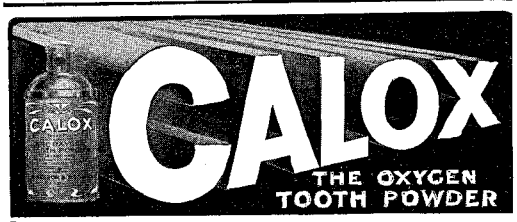

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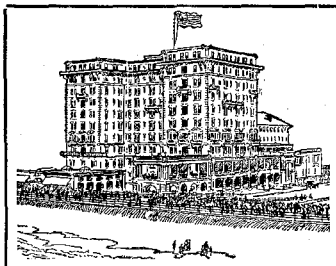

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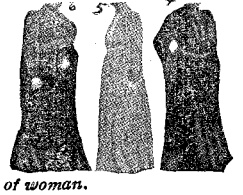

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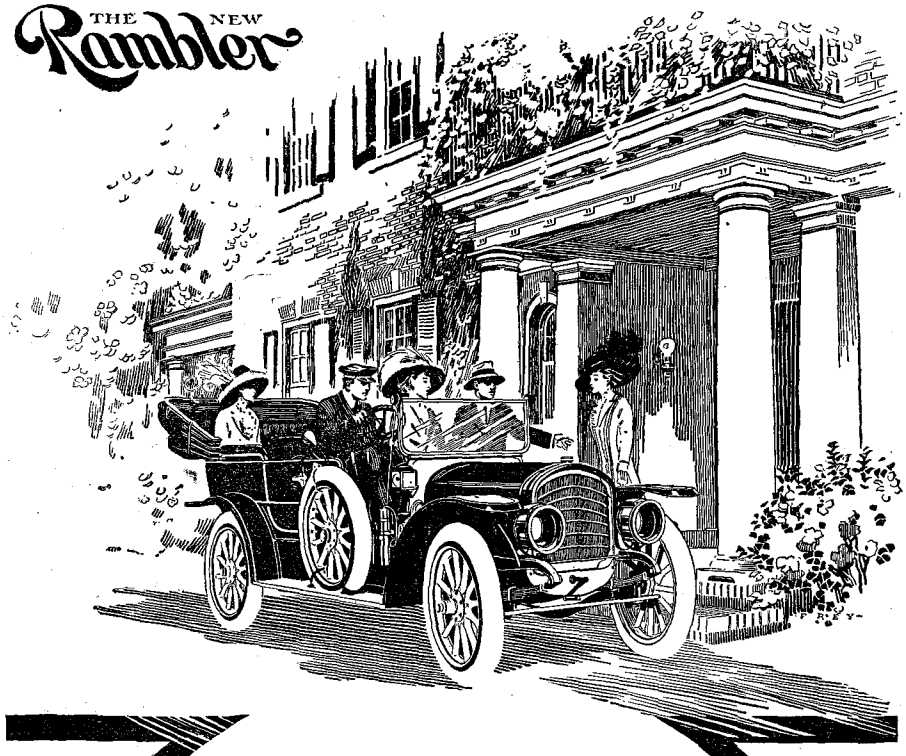

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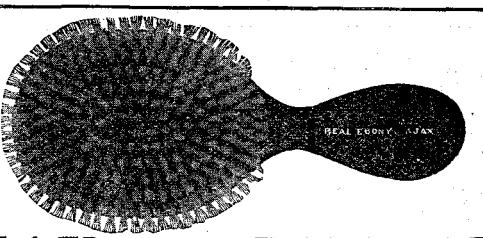

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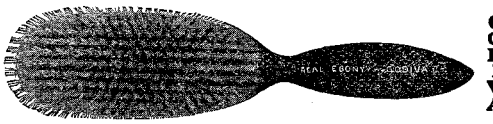

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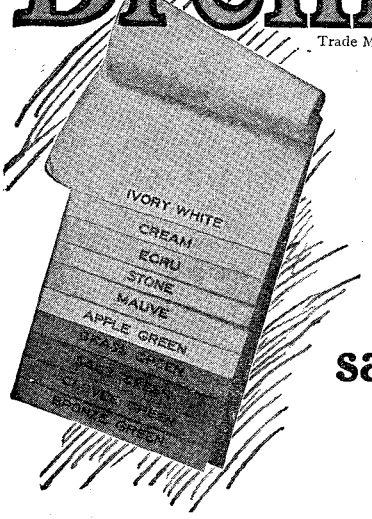

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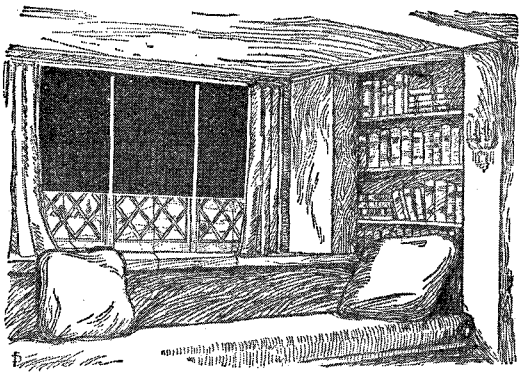

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